

A
VINDICATION
OF THE
KING's Sovereign Rights:

Together with

A Justification of His *ROYAL Exercises* thereof,
in all Causes, and over All Persons *Ecclesiastical*
(as well as by consequence) over All *Ecclesiasti-*
cal Bodies Corporate, and *Cathedrals*: More
particularly applyed to the *KING's* Free Chap-
pel and Church of

S A R U M.

Upon Occasion of

The Dean of *SARUM's* *Narrative* and *Collections*,
made by the Order and Command of the most
Noble and most Honourable, The *LORDS*
Commissioners, Appointed by the *KING's* *Ma-*
jefty for Ecclesiastical Promotions.

By way of *Reply* unto the *Answer* of the Lord
• Bishop of *Sarum*, Presented to the aforesaid
most Honourable *LORDS*.

Printed only to save the Labour of *Transcribing*
several Copies, and to prevent the Mistakes
thereby apt to be incurr'd, and meerly for the
Satisfaction of private Friends, who either
Want or *Desire* a most Impartial Information
of that Affair.

VINDICATION OF THE KING'S SOVEREIGN RIGHTS

TO WHICH IS
ADDED
A FULL AND COMPLETE HISTORY
OF THE
DECLINE AND FALL OF THE
MONARCHY OF GREAT BRITAIN
FROM THE DEATH OF
CHARLES THE FIRST TO THE
PRESENT TIME

BY
J. H. M.

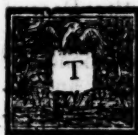
THE
DIGNITY OF A KING
IS NOT TO BE
CONSIDERED AS
A PRIVILEGE
BUT AS A TRUST
WHICH IS
TO BE USED
FOR THE BENEFIT
OF THE PEOPLE
AND NOT FOR
THE PRIVATE
INTERESTS
OF THE KING
OR HIS
OFFICERS

AND
A FULL
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OF
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A

GENERAL TABLE OF THE CONTENTS.



THE Dean of *Sarum* superstructs the Ecclesiastical Rights in *Thesi*, (to things of humane Establishment) upon the Foundation of the *Regal*, as upon a *Rock* which cannot fail them. And also the Rights of the Bishop of *Sarum* in *Hypothesi*, upon the only sure Foot which it can possibly stand upon. The *Moral Necessary* of distinguishing (with the Judicious Bishop *Sanderson*) between an *Original*, and *Derivative* Right: As also (with the famous Chief Justice *Coke*) between a *Subordinate*, and the *Supreme*. The KING in *Law* is The *Founder*, *Proprietor in Chief*, and *Advower Paramount*, of All *Arch-Bishopricks*, and *Bishopricks*, *Cathedrals*, *Prebends*, and of *All* contained in them. The *Despotic Exercise* of the *Regality*, as in all *Other Churches*, so *Above All* in the Church of *Sarum*. The Church is never so much *Betray'd*, as by Them
A 2 who

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who assert a *Church-man's Right*, with an *Exclusion of the King's*; and strive to take down the Stairs, to which they owe their own Advancement. The Dean of *Sarum* does not ascribe an *higher Prerogative* to the KING than *Judge Coke* himself, and *Bishop Sanderson*, the Common, and Statute, and Civil Laws; yea no more than *Pope Nicolas* to *Edward the Confessor*, and his *Successors Kings of England*: And does but distinguish (with the most excellent *Paolo Sarpi*, That Oracle, Life, and Soul, of the most famous *Venetian Senate*) between Dominion, and Dispensation. Where any Bishop is *Dispensator*, the KING is *Dominus*.

The Second Chapter.

THE *King's Castle* at Old *Sarum*, and the *King's Free-Chappel* in it, and the *Dean* of it, *Before* a Cathedral Church was built, *Before* a Chapter was created, *Before* the Indowments of the Sovereign and Subordinate *Founders*, and during all Bishop *Herman's* Time, are made Apparent and Undeniable, by the Best and First Authors printed, by which the *Written Registers* can be confirmed. And *That Register of Registers*, which was cited by the *Dean*, but cheaply slighted by the *Bishop*, is shewed to be as *Authentick*, as any his Lordship can produce, and for All the same *Reasons*, which any *Ordinary* can urge for another Register. *Florentius of Worcester*, *Eadmerus*, *Will. of Malmsbury*, *Roger Hoveden*, *Simeon Dunelmensis*, (All elder than *Mat. Paris*) and *M. Paris Himself*, with several others, do all conspire (*in antecessum*) to prove the Authority of the *Deans Register*, maugre Those who disesteem it, for appearing too much in the *Royal Cause*. Truth justified

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justified by its *Opposers* (before they are aware and against their Wills) in the very *Act* of their *Opposition*. Two or three *Bishops*, and many *Earls*, had the King's Castle only as *Keepers*, and during *pleasure*; Thence 'twas an *Ambulatory Trust*, as is demonstrated by an *Induction*. The Castle stood on the King's Soil. The Lord *Bishops* *Margin* does only serve to *Confute* his *Text*.

The Third Chapter.

THE Dean of *Sarum's* Jurisdiction in his *Peculiars*, and particularly in *That of Salisbury-Close*, (which must be distinguished from *the City*, which is the *Bishops* under the KING) whereof the Dean is the Sole Immediate *Ordinary*, was ever *Exempted* from the *Bishop*, by the Charter of the *Supreme* and *Subordinate* Founder of the Cathedral, the *King*, and *Osmund*. In comparison with which, The most unlawful Composition was but a *Novelty*. Almost *Three Hundred* years Younger, than the Great Fundamental Statute. That *Composition* was a *Conspiracy* of Pope *Boniface the Ninth*, with the Then *Bishop*, *Dean*, and *Chapter*, against whatsoever is Great, or Sacred. Against the *Good Word of GOD*. Against the *Supremacy* and *Prerogative* of the KING. Against both the *Common* and *Statute Law* of the *Land*. Against the very *Foundation*, whereupon the whole *Colledge* and *Church* are laid; and together with which they must *Stand*, or *Fall*. Against the *Souls* of Them that *Made* it, and have *Acted* according to it, both in regard of their own *Oaths*, and the *Founder's Curse*. And (by reason of *All the Nullities* and *Inconsistences* that are in it) against *Common Sense*, and against *It Self*. The
Dean

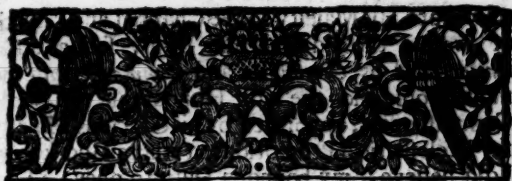
A General Table of the Contents.

Dean of (1.) *Sarum's* Jurisdiction, exclusively of the Bishop's within the Close, is strongly proved by the *Confession* of the present (2.) Lord Bishop to the Dean, *Before* his Lordship had been Incensed by the Dean's *Services* for the (3.) *King*, and by his dutiful *Obedience* to the *Lords Commissioners* Command. 'Tis farther proved by All *Decisions* of Authority, For the Dean's evident Right, *against* the Bishop's Invasion of it. An instance of it in the Sentence of the Lord Chancellor of *England*, and the Arch-Bishop of the whole Province. The *Mischeivous Effects* of the Composition. Of no use to its *Observers*, unless to make them in danger of incurring a *Pramunire*. The Absolute Necessity of a *Royal Visitation* to set all Right,

The Appendix.

MR. Yeates, in several Letters to persons of Honour, and lesser Quality, doth strongly assert unto himself his whole design of the *Four Heads*. He irrefragably proves the Dean of *Sarum*, not to have had an *Hand in*, or *Assent to*, or *Connivance at*, or *Knowledge of* his Design, *Antecedently* to the Command of the *Lords Commissioners*, or to the *First Notice* sent him by the *Lord Bishop* and the *Chapter*. His *Two Inducements* to it from his *Right Reverend Diocesan*; and his *None at all* from the Dean of *Sarum*.

(1) Dr. Peirce (2) Dr. Seth Ward (3) K. Charles the 2d.



A
VINDICATION
OF THE
King's Sovereign Rights,

As in all Cathedral Churches, so especially
in the Church both of Old and New
Sarum, as asserted in the Dean of *Sarum's*
Narrative, drawn up and presented to
the most Noble Lords Commissioners.



Aving laboured of Late under the
Obloquy of Some, and the Ill-will
of Others, and the impotent Re-
vengefulness at least of One, for
having delivered what I had found
of the King's Sovereign Rights,
and his Royal Exercises thereof, as well in *All*
Causes, as over all Persons Ecclesiastical, All Bodys
Corporate and Cathedrals, more particularly ap-
plied

plied unto His Majesty's Free Chappel and Church of *Sarum*; tho' I did nothing of my self as a *Voluntier*, but by *Commission* and *Command* from the most Noble and the most Honourable the Lords Commissioners, appointed by his Gracious Majesty for Ecclesiastical Promotions, (whom God knows I did believe it my bounden Duty to obey;) I am induced to give the Reasons of my having made so bold with my *Master's* Enemies and mine own, as to be dutifully Loyal without their Leave. I was loth to ask of them, by whom I was sure to be denied; And, did Presume I might as pardonably assert the King's and the Churches Rights, now that the King is on His Throne, and the Church less Militant, as I did safely and with Success, before the Great Year of their Restauration.

Sett. 1. First I was of an Opinion (before I had it from a most excellent and most Noble Lord Commissioner) *That 'tis the Duty of every Subject, and especially of the King's Chaplains, to discover all they know of His Majesties Prerogative, tho' not Com-manded by Authority, as I had been.* Which saying of a Judicious and a most Honourable Lord (in the Council Chamber, and elsewhere,) is agreeable to another of two Lord Chancellors in their times, whereof the first was the Lord *Bacon*; from whom 'twas borrowed by the Second, who used it in his Speech to Sir *Edward Thurland* when made a Baron of the Exchequer. To wit, *That the Subjects of England in General, as well as the Judges in particular, (and particularly the Judges of Ecclesiastical Courts, such as is the Dean of Sarum,) are bound to maintain the Prerogative, and not distinguish it from the Law. The King's Prerogative being Law, and (in the words of Chief Justice Coke,)*

(a) Coke,) *The Principal part of the Common Law ; as That from which all other Laws are derived, and on which they do depend.* With these I compared that famous Saying of a full Parliament, which I found cited by my Lord (b) Coke too, *That no King or Kingdom can be safe, but where the King has Three Abilities, 1. To live of his own, and defend his Kingdom; 2. To assist his Confederates, and 3. To reward his deserving Subjects.* From whence I thought it would follow, that to take from the great Number of Ecclesiastical Promotions in the Kings Gift, is to act against the safety of King and Kingdom, 'Tisreckoned one of those things which even a King cannot do Lawfully, and which a (c) Parliament cannot consent to. Besides I thought it most unworthy, that he who had not been afraid in the worst of Times, and without a Warrant, and under none but God's Protection, to defend the King's Rights and the whole Church of England, by many Arguments in Print, (when some *New Royalists* durst not join in a *Petition* for the Kings wished Return, for fear (as they then said) of setting their Hands to their own Ruine, as having reason to suspect the Restauration would be General, that All *Usurpers* must be *Ejected*, and all *Ejected* for their Loyalty, would have their own, which passed with some for an heavy Judgement,) should now descend unto the *Meanness* of hiding himself behind *Another*, and behind *such* another as he knew to be *Unqualified* for such service, as I was irrationally suspected and most maliciously reported to have engaged *Another* in. No, the *Pretenders* to that Suspicion, and the *Inventers* of

(a) *Coke Instit. Part. 1. Sect. 648 P. 344.* (b) *Instit. Part. 4. c. 1. p. 44.* (c) *Rot. Parl. 42. Ed. 3. n. 7. ibid p. 14.*

that

that Report, did only design by such Baseness to lessen the merit of my Obedience to the Lords Commissioners Injunction, and of my Dutiful Regard to the King himself, towards whose Service it was my fault, (as 'tis my Apology and Excuse with a sort of men,) that I did not go till I was sent, nor mend my Pace till I was driven.

Sect. 2. Next I had learned by my perusal of *Keble's Statutes at large*, and of Chief Justice *Coke's Institutes*, (to name no more in this Place) (d) *That the Gift of all Bishopricks, and Nomination of Bishops did ever belong to our Monarchs, both before, and since the Conquest, as in Right of the Crown.* My Lord *Coke* gives the Reason from this trite Maxime in the Law, (e) *That all our Archbishopricks and Bishopricks, were and are of the King's Foundation.* That at first they were therefore all meerly *Donative*, meerly by the Delivery of a Staff, and a Ring. Never *Elective* till King *John*, who Reigned not without the Murdering of *Arthur of Britain* the Rightful Heir. (f) *That it was again taken away by Hen. 8. and Ed. 6. in whose Reigns all the Bishops were required to take out New Commissions for their Bishopricks, and so to hold them onely as Delegates in the King's Name, and not for Life Absolute, but During Pleasure.* And Archbishop *Cranmer* gave an Example to the Rest. (g) *That Elections by Deans, and Chapters are declared by Law to be No Elections, but by a writ of Conge d' Eslire have only Colours and Shadows, or Pretences of Elections serving*

(d) 25 H. 8. and 1 Ed. 6. 2. (e) 1 Inst. l. 2. c. 6. s. 94. 97. And l. 3. c. 11. Sect. 648. p. 344. (f) Dr. *Burnet's Hist. of Reformation*. Part. 1. p. 265. and Part 11. p. 2. 7. (g) 1 Ed. 6. cap. 2. Rast 9. Wingat, Sect. 15. 25 H. 8. c. 10.

Chap. I. §. 1. King's Sovereign Rights. 3

to no Purpose, and seeming derogatory and Prejudicial to the King's Prerogative Royal, &c. That Bishop (h) Bonner declared under his hand, He held his Bishoprick of London, of the King's Bounty alone, during the King's Pleasure only, and that he would again deliver it up, when it should please the King to call for it. That (i) all the Temporalities of Archbishopricks and Bishopricks in all Vacancies (which our Kings made when it pleased them) ever came to the King as Founder. He being Patronus and Protector Ecclesie in so high a Prerogative incident to his Crown, that he cannot part with it, no Subject can have claim to it either by Grant or by Prescription. That (k) the Lands of the Church were all at first given by gracious Princes, as may appear from the first Book of Justinian's Code, where Laws are recorded for the conferring, and also for the Conserving of them. Which is also the Affirmation of the most excellent Paulus Sarpinus. That (l) if the King and a Common Person have joyned in a Foundation, the King is the Founder; because it is an Entire Thing. For the Truth of which *Maxime* that renowned Judge cited 44 Ed. 3. c. 24. from when I inferred within myself, that King Hen. 8. (rather than *Wolsey*) was Founder of Christ Church in Oxford, tho' its well enough known, that *Wolsey* was a Co-Founder: Or, Founder Subordinate to the Supreme. So *William the Conqueror* (rather than *Osmund*) was the Supreme and Sovereign Founder of the Cathedral Church of Old Sarum; tho' by the King's Bounty, as well as Leave, St. *Osmund* built, and greatly indow'd

(b) See the 1st Collea. to the 1st part of the Hist. of Refor. p. 184, 185. (i) Coke 2. Inst. c. 6. upon *Magna Charta* p. 15.

(k) C. de Sacrosanct. Eccles. & de Episc. & Clericis. (l) Coke 2 Inst. on *Magna Charta*. c. 33. p. 68.

it with such Revenues, as he (m) held of his Lord and Master *during Pleasure and by Knights Service*. For the Conqueror's Soldiers (whereof *Osmund of Say* was one) held all the Lands which he gave them *under military Service*, not as properly Freeholders, but as Lords in Trust only, and according to the King's Pleasure, thereby hoping to engage them to a close Dependence upon the Crown: as the learned *Selden* relates of *Matthew Paris*, and his learned (n) *Annotator* does give the Reason. I do not say our Monarchs have had the same Power ever since, but the same Right by Law which ever any King had. Nor do I say they have a Right to any Secular Possessions whereof the Subject hath a Fee simple; But a Right to confer on Ecclesiastical Persons such Ecclesiastical Dignities and Revenues, as are in Law of the King's Foundation, Which all are affirmed to be by *Keble*, referring to the Statute of 25 Ed. 3. p. 121. Where the Holy Church of England is said to have been Founded by Ed. 1. and his Progenitors, &c. as the Lords and Advocates of it. And then by vertue of that other Maxime in my Lord *Coke*, (who was never more an Oracle, than when he spake for the King's Prerogative, to which he had never a Partiality,) That (o) Successors are included under the Name of King; 'Tis plain that what Right soever was in *William the First*, and his next immediate Successors, (especially *Hen. 1.* and *Hen. 3.* from whom the Church of *Sarum* had vast Additions of Endowment,) Our King hath now. Hence it is that All our Kings have been not only owned as the Founders, but as Patrons of our Cathedral. For

(m) *Selden. Janus Anglorum*. l. 2. c. 1. p. 48. (n) *ibid.* 116. (o) 2 *Inst. in Statutes of Employment*. p. 742.

which

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which I cited the Address of the Dean and Chapter to *Hen. 7.* in whom the two contending Houses were united, wherein they called him their *Founder* (p) *seven times at least.* Their Numerical Expressions in their *Prayer to God for him,* (to whom they could not intend to lye) was *Fundator Ecclesie Sarum.* And *Hen. 8.* was so styled by the famously Learned and Prudent (q) *Longland,* after Bishop of *Lincoln,* and Lord Chancellor of the University of *Oxford,* for which I might cite the Exact Register of *Harward,* the Authenticalness of which was never questioned. So 'tis Notorious that all Members of *Christ-Church* in *Oxford,* in their *Prayers* before their Sermons do Commemorate *Hen. 8.* (not naming *Wolfey*) as their *Founder.* From whence it is that the *Dean* of *Christ-Church* is the *Sole Governour* of that Cathedral, and the *Bishop* of *Oxford* not. As the *Dean* of *Westminster,* had the *Sole Jurisdiction* within the Precincts of that Cathedral, when there was Created a *Bishop* of it. And the *Dean* there hath more than *Episcopal Jurisdiction.* *Archiepiscopal* (saith *Dr. Heylin*) *within all the Liberties,* as the *Abbots* had heretofore. Ever since *Sebert* King of *Essex,* Kings and Queens have been Successively, and in the Eye of the Law the *Founders* of the Church, and of all within it. As it is now a Collegiate Church, Queen *Elizabeth* was the *Foundress,* and our King at this day (whom God preserve) is in Law the *Founder* of it. As for all the same Reasons, He is the *Founder* of our *Colledge* and *Church* of *Sarum,* as well by several *Acts of Parliament,* as in our own *Books.* Our *Norman Kings* did

(p) Fol. 46. 47. usque ad Fol. 59. (q) *Regist. Harw.* p. 66.

say of it, as *Will. 1. of Battle Abby*, (r) *Libera sit sicut mea Basilica Capella*; and as that was exempted from the Power and Visitation of the Bishops of *Chichester*, so was ours from the Bishops of *Salurum*, as shall be shewn in its proper Place. I end this Section with that Old Distich in *Spondanus* of our *Salisbury Cathedral*, and with a Verse made in those very times.

(f) *Rex largitur opes ; fert Prasul opem ; Lapidibus
Dant operam ; tribus his est opus ut stet opus.*
(t) *Regis enim Virtus Templo spectabitur isto.*

Seet. 3. Thirdly, Altho' I do not say, with that incomparable Civilian Sir *Thomas Ridley*, (r) *That the King himself is instead of the whole Law, yea he is the Law it self, and the only Interpreter thereof, in as much as all those who govern under him, govern by him, and for him ;* Yet I will and do say with our *Acts of Parliament*, (u) *That the Kingdom of England is an Empire ; and the King Supreme Head of it ; and his Crown an Imperial Crown.* He is not a Precarious, but an *Absolute Monarch*, saith the Learned *Camden* in his *Britannia*. *Supremam Potestatem, & merum Imperium habet apud nos Rex.* And his Sovereign Dominion over all Ecclesiastical Persons, and in all Causes without exception, is confessed to be *de Jure*, by All our Clergy Men in their Pulpits, as well as by All in England who pay him *First-fruits* and *Tithes*. Not excepting those very Persons who cannot yet Pardon my most necessary Distinction, (on which doth lye the whole stress of Ours and all Other Cathe-

(r) *Eadmerus* l. p. 6. *Seld Spic.* p. 165. & (f) *Spond Annal ad A. D. 1237.* (t) *Camden in Wilt.* (u) *View of the Civil Law.* part. 2. c. 1. & 6. p. 104. (w) 24 H. 8. c. 12. and 1 Eliz. c. 1. 2. 3.

drals) between an *Original* and *Derivative Right*; a *Right Supreme* and one *Subordinate thereunto*. Our *Proprietaries in the Chief* of the Church of *Sarum*; and so it is with the strictest Propriety of speaking, that in all their Royal Mandates they use that Stile, *Our Church of Sarum*. For as *Proprietaries in Chief*, & *bona fidei Possessores*, and *Founders* of the Bishoprick, as well as of *All belonging to it*, I find and can prove (against the naked and cheap *Denials* of such as can easily deny what they cannot *Disprove* by any Artifices or Strengths) that our *Monarchs* have Acted as *Despotically* in and over the Church of *Sarum*, as in any their Mansion Houses. Who but our *Monarchs* did take away the Fourteen *Prebends* I reckon'd up in my Collections, and the *Archdeaconry of Dorset*, and all the *Dorsetshire Jurisdiction* from the Bishops of *Sarum*, (not so much as *One Parish* remaining there unto the Bishop, though about Forty to the *Dean*;) and conferred them upon others according to their Wills and Pleasures? To begin with the first Times, were to write a Volume. Let it suffice that *Hen. 8.* gave Four of them at once to the *Dean and Chapter of Windsor*, as that of *Okeborn St. Andrew*, that of *Okeborn St. George*, that of *Hungerford*, and that of *Sherbourn*; but did not take from the *Dean of Sarum* the *Episcopal Jurisdiction* in any one of them: Nor in that which was given by *Hen. 8.* or *Ed. 6.* to the *Earls of Pembroke*, to wit, the Great *Prebend of Axford*, supposed to have been given by *Q. Elizabeth*, to her Secretary of State, *Sir Francis Walsingham*, from whom I know it came by Purchase to *Sir Francis Pyle's Grandfather*; the like to which he has also in the *Prebend of Sherbourn in Dorset*, which hath been variously disposed of to and fro by

by our several Monarchs, for about Five Hundred Years together, from King *Stephen* to King *James*. And tho' *Sherbourn* was the Seat of so vast a Bishoprick, that no fewer than Four Bishopricks were taken out of it. yet the whole Jurisdiction of That, and many round about it, have still been saved intirely by *All our Monarchs* since the Conquest, to Him who was *then*, and ever since the *Dean* of their Majesties free Chappel and Church of *Sarum*. Then *Formaliter*, and ever since *Virtu- aliter*, in Respect of the *Franchises* belonging to him. Indeed in the Prebend of *Bedwin*, given away by *Ed. 6.* to the *Earl of Hertford* and his Heirs, the *Dean of Sarum* has but *Episcopal Jurisdiction*, and a Triennial Visitation; the like to which he has in the *Prebend of Faringdon*, which is now in *Sir Robert Pye*, to whom it descended from his Father, by whom it was bought of the *Lady Umpton*, and given for ever from the Bishop and Church of *Sarum*, by *Ed. 6.* to *Wm. Hening, Esq. A. D. 1550.* The Three good Prebends of *Uphaven, Loders, and Horton*, were Alienated from us, I know not *when*, or by which of our *English Monarchs*. The *Prebend of Shipton* (which was no more in our Monarchs to dispose of, than *All* the rest) was given away by *King James I.* (as to the Patronage and Advowson) unto the Chancellor and Scholars of the University of *Oxford*, for the use of a *Lay-man* the King's Professor of *Law* there, and to his Successors for ever, with an *Etiamsi Laicus sit, & sacros ordines non susceperit*; and this the King gave under the Great Seal of *England*, where- in the *Habendum* and the *Tenendum*, is not of the Bishop of *Sarum* (of whom there is not the least Notice taken) but of *Him* the said King, and his Successors for ever: Which Gift and way of giving

giving it, was afterwards confirmed by an Act of Parliament, which I wonder to find alledged by the Right Reverend the Bishop in Derogation to the King's Right of giving Prebends; as if a King's Act were the less *Regal*, or *Legal*, for being done by the King twice. First without a Parliament, and a Second time in it. Or as if the King of England had not Acted as the *Proprietor*, because the Three Estates of Parliament did so esteem Him. Nor hath any Reason been given (that I have ever read, or heard of) why King James might not as easily have given away any other Prebend, which had been founded in that Church, that of *Netherbury in Terra* for Example, which he really had given to his Divinity-Professor, and to his Successors, but that His Majesty found it too little, and rather chose to give them a Greater Thing. Nor is the King's Act in Parliament (which we may no more distinguish from the King, than we may distinguish the King's Prerogative from the Law) more or less the King's Act, than his Act in Council (although perhaps of more force:) For the Three States which make the Body of a Parliament, whereof the King is the Head (tho a most Honourable Body, and a whole Kingdom in Epitomy) can but prepare Matter for Law, and humbly propose it to the Sovereign to be ratified or rejected, as his Majesty thinks fit. But the *Ratio Formalis* of Legislation is fully and solely in the King; whose *Fiat* or *Le veult* is the very Soul and Life of every Law made, or to be made. And really if the King of England is not the Founder, the Sovereign Patron, and Proprietary in Chief, as well of the Prebends, as of the Bishopricks; the Bishop of Sarum can have no Right to his Prebend of Potern (tho Installed and Admitted

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ted

ted by the *Dean and Chapter*, as other *Prebendaries* are;) much less can he have *Right* unto his other *Prebend* of *Blewbery*, into which he was never so *Installed* or *Admitted*; and which is reckoned in the *Choir* among the *Alienated Prebends*, because transferred from the whole *Chapter* to the *Bishop* of *Sarum*, who is indeed one of the *Chapter*, as he is *Prebendary* of *Potern*, but not at all as *Prebendary* of *Blewbery*: And so his *Lordship* cannot have a *Right* to it; (tho he has *Possession* of it,) unless he hath it from the *King*, which is *Right* enough; and yet it is not enough, in case the *King* is not *de jure* the *Sovereign Patron*, and *Proprietary in Chief*. 'Twas never once held by any *Bishop* of *Sarum*, (but was a distinct and good *Provision* for one of the *Simplices Canonici*) until the *Reign* of *Hen. 8.* by whom 'tis pretended to have been pressed upon *Bishop Salcot*, alias *Capon*, and that in *Exchange* for the *Mannor* of *Godalming* in *Surrey*; which could not possibly be *de jure* (if indeed 'twas so *de facto*) in case the *King* had no *Right* to dispose of that *Prebend* as he thought fit: I say if it was indeed so *de facto*, because the *Mannor* of *Godalming* in *Surrey* (with the *Rectory* and the three *Copices*, and the perpetual *Advowson* of the *Vicaridge*) was the *Gift* of *King* (x) *Hen. III.* and is the *Dean* of *Sarum's* *Corps*, and held of him by *Lease* to this very day. Nor could such an *Exchange* be made (if it ever were) without the *King's Fiat*, as *Proprietary in chief*: And I hope 'twill not be said, that the *King* has only *Right* to *Alienate* what he will to the *Bishop* from any other, but no *right* to give what *Prebend* he will to any other. It is against *Law*

(x) *Lib. Stat. ut fol. 38.*

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and Reason, that *one* Man in the same Church should have *two* *Prebends* at once. And therefore when *Hen. II. of England* gave *two* to *one* Person (y) *Pope Alexander the Third* complained of it: Not at all questioning his Royal Right to give *Prebends*, but the Evil Use of it. Hence it follows, that the Right of any Bishop of *Sarum* to bestow *Prebends* (which I shall ever assert as the only sure Foot it can stand upon) must needs be Subordinate to the King's, from whose *Supream* Right it was derived. For the King (if he would) (z) cannot legally confer a *Sovereign Right* upon any Subject, much less upon a Bishop, Dean and Chapter, who cannot hold what they have for Term Life *Absolute*, being many ways subject to *Deprivations*. Amongst many other Examples which might be easily given of that; Judge (a) *Coke* tells us of one Bishop of *Exeter*, who fell into a *Præmunire*, for not admitting one immediately, who was presented by the King to the Church of *Southwell*: And this was done in the prevailing Times of *Popery* (24 Ed. 3.) much more easily may it be done by a *Protestant King* (and hath been often) who hath of Right an *Ecclesiastical Supremacy*, and doth assert it without a *Sacrilege*, or an *Encroachment* upon the Church, and that by the Confession of all *Loyal Church-Men*. I am sure I can name *Many*, who once allowed much more to *Cromwell*: And yet by (b) *two Statutes* in force, 'tis downright *Treason*, for any Subject of *England*, either to *Promise* or *Pay* Obedience, to any other

(y) Conc. Imp. & Sac. l. 8. c. 22. art. 7. (z) *Coke* 1. Inst. l. 1. §. 1. and part 2. in Stat. de Westm. c. 1. p. 501. præsertim. part 4. c. 7. 287. (a) Part 4. c. 76. p. 356. (b) 23 Eliz. c. 1. 3 Jac. c. 4.

than to the King, his Heirs, and Successors. 'T would be as endless, as it is easy, to Muster up Instances of the Regale over Churches and Church-men, and their Revenues, even when they were as Great, as the Pope could make them; and at as high a pitch of Pride, as that Usurper of Supremacy could raise them to. The most Assuming Bishop of Rome that ever was, was Pope Hildebrand; against whose Tyrannies and Encroachments, William the Conqueror was a Protestant; yet he apparently so dreaded the growing Power of the then Bishops within this Kingdom, that he Confirmed his own Power (as well as shewed it) by lessening theirs. Our Kings (in a word) are *de jure* Kings of France: And the French King's Prerogative, or Propriety, cannot be greater in the Gallican Church, than our Kings is in the Church of England. "Nor indeed near so great. ('Tis a little thing to say in the Church of Sarum only.) And yet the whole Clergy of the Gallican Church, have lately declared their Opinion by the Mouth of the Arch-Bishop of Rheims (notwithstanding their Popes Pretensions) That the King hath a clear Title to the Right of the Regale in all the Bishopricks of his Kingdom; That a General Council cannot lessen it, much less a Pope; That no Present King can be deprived of what a former King had; That the King's Collating to Prebends is such an Act of Supremacy (so the Historian does infer) as shews the King to be Lord in Fee; and by the Code made in the Time of Hen. 4. (c) If a Chapter refuse to Install a Regalist, Letters are to go out to compel them to it, or else their Revenues are to be Seized on. Briefly 'twas

(c) Code Hen. 4. l. 7. Tit. 1. Art. 47.

confessed by the *Bishop of Pamices* (the stoutest Assertor of the Pope's Ecclesiastical Supremacy) that *The Foundation of Churches does prove the King's Right of Patronage*. All which and much more may be Collected out of Dr. *Burnet's* elaborate *History of the Rights of Princes, &c.* And if the *French Kings* Prerogative is such; who does not own an Ecclesiastical Supremacy in all Causes, and over all Persons, as our King does; How much greater is the Regale of our Kings here in *England*, ever since the Reformation? I will conclude this Comparison of the King of France with the French King, in the words of this King's Procurator General in Parliament, to wit, That the King can no more renounce the Right of the *Régale* in Ecclesiasticis, either in whole, or in part, than he can destroy the *Salick Law*, or quit the Sovereignty of any Provinces in France: And further adds, They would all quit their Employments, rather than consent to the least Diminution of that Right. There are some among Us, who do not speak in that Strain, though others do.

Señ. 4. Fourthly, I observed a Maxim of Law in my Lord *Coke*, which did Confirm me in my Distinction between a *Supream* and *Subordinate* Right. The Maxim is, (c) that *If the Title of the King, and of a common Person concur, the King's Title shall be Preferred*. For the Law (saith he) respecteth Honour and Order: Therefore if the King makes one Man a Resident, whilst the Dean and Chapter is choosing, and have a desire to Choose another; the Dean and Chapter will prefer the King's Clerk, and not dispute with his Majesty *de jure*

(c) 1 Instit. l. 1. c. 5. Señ. 35. fol. 30.

Patronatus. Several Instances may be given in several Churches. Those of *Salum*, and *Wells* in especial manner. So if the King presents *One* to a *Prebend* without Residence, and the Bishop *Another*; the Dean and Chapter will Install and Admit the King's Man, because by expresse Statute-Law, (d) *The King is the Advowser Paramount immediate of all Churches and Prebends*. And accordingly our Kings, the Last, and Present in particular, do not only Recommend, but *pro Imperio plane Despotico*, do expressly Command Obedience to, and Compliance with them; and that sometimes in the very same Line, sometimes two or three Lines lower, sometimes again in the Conclusion. Yes, and in variety of Despotical Expressions (as great as any can be invented in Law to be *Imperial*. Such as are (for instance) (e) **We will. We command. We will and require. We will and requiring you. Our pleasure is. Our expresse will and pleasure is. This We will have done, Any Use, Custome, Prescription, or any other Matter, or Thing to the contrary in any wise notwithstanding.** Again, **We Will, and Our Pleasure is,** that **You cause these our Letters to be entered in your Register, to the end they may be produced when Occasion requires.** What French King did ever Write in a more Decretory, Despotical, and Masterly Stile, than *Le Roy le veult*. *Car tel est son plaisir?* This was as far

(d) 25 Ed. 3. Stat. 6. (e) Of many more Instances, These at present may suffice. In the Letters of Ch. I. May 18. in the 9th year of his Reign. And Feb. 8. the same year of Ch. II. Jul. 24. 1674. and Jan. 11. 1665. and Sept. 10. 1666. and Mar. 8. 1676. and Jun. 8. 1680. Besides many more Registered, and many which are not, but ought to be, and to have been,

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as Heaven from Hell, from *Expresly Disclaiming a Royal Patronage, and Right; and Jurisdiction.* I will add but one more, which was both ways Despotical; to wit, by a signal *Inhibition*, and by a *Peremptory Command.* For having said, that *He had given* unto his Chaplain Dr. Drake the Dignity and Office of *Chancellor* in that his Cathedral Church of *Sarum*, with the Prebend thereto annexed? His Majesty added these signal words; [We hereby *Will and Require*, that no Other Person be *Admitted or Elected* into any *Residentiaries* Place now *vacant*, or that *shall be vacant*, until He (the said Dr. Drake) be received into the *Rights and Profits* of Residence; And for so doing, *This shall be your Warrant.*] Much more might be said of the King's *Mandate* for Dr. *Whitby*, which yet I forbear, till occasion serves. Only of this I am assured by as Eminent (f) a Lawyer, as perhaps ever was, That a false Suggestion in a Petition to the King, does void the King's Grant of the thing Petitioned for: It being a Maxim in My Lord Coke (g); [The Grant is void, where the King is deceived in his Grant.] Besides all this, I sadly considered with my self, how often Bishops Temporalities have been *Resumed* by our Kings upon light Displeasures. How often *Will. 2.* did (h) Resume his own Grants. And how he at once took all the Profits of the Bishopricks of *Canterbury, Winchester, and Sarum.* And how all Bishops were threaten'd (i) by *Hen. 3.* With a *Seizure* of all they had, if they presumed to *intermeddle* in any thing to the Prejudice of the Crown. Lastly,

(f) Coke 1. Inst. l. 1. Sect. 31. fol. 27. (g) Stat. 14 Ed. 3. cap. 4. (h) Daniel in the Life of Rufus. p. 44. (i) Lord Coke out of the Parliament Rolls. 18 H. 3.

How (k) all our Kings and Parliaments (excepting one) even from *Hen. 3.* until the 6. of *Hen. 8.* have used *Acts of Resumption*, whereby to Repair the low Estate of the Crown. The just and frequent way to do it (said the learned Sir Robert Cotton, in his Speech to the House of Commons, 1 *Car. 1.*) The Dean of *Sarum*, as much as any Man, is for the Bishop of *Sarum's* Rights (though not exclusively of the Kings) and would have it stand safely, by standing for ever upon a Rock, to wit, The Prerogative of our Monarchs, who, in Law, can never dye. They tend to the Ruin of the Prelacy, and all Cathedrals, who labour to make their King Despotical, in the Sence of the Greek Proverb only, *μὴ εἰς δούλον ἐν τῇ οἰκίᾳ ὁ δέσποτος*. Be a Family never so Great, there is but one Servant in it, and that is the Master of the House. But the Learned Dr. Burnet affirms the King to be Despotical in a much better Sence. For premising an Observation, how frequently Christian Monarchs made Pœnal Laws for Church-men, the Pains of which were Suspension, or Deprivation (whereof the Instances are many, both in the old Roman Laws, and in the Capitulars) He Infers the King's (l) Mastership, and gives a very sound Reason for it. Indetd the Bishops of Rome for several Centuries of Years, even in all their Publick Bulls, and till the Death of Charles the Great, did own the Emperors of their Times, as their (m) Lords and Masters. And Richard Poor, Bishop of Sarum, did own King John as his (n) Master, with greater Reason; however that King *de facto* made himself

(k) Y. Cottoni Posthuma, p. 289, 281. (l) Hist. of the Rights of Princes, in disposing of Church Lands and Eccl. Promotions. p. 322. (m) Guiccard in Hist. l. 4. (n) Regist. ex Ap. Pontif. fol 3.

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the Pope's Vassal. *Postulans ab Eo tanquam a Domino suo manus adjutrices.* All agree the Monarchs of England have power to Suspend, or Deprive a Bishop (as Ours has done an Arch-Bishop, and that for a lesser degree of Guilt, than that of opposing the King's Prerogative) as Q. Mary and Elizabeth did : and of our Kings not a few. So 'tis on all hands confessed, That their Royal Visitations, either of All the Churches of England (as Hen. 8. Ed. 6. and Q. Eliz. by their Commissioners) may Abolish Old Statutes, and Order New ones to be made ; and this for One (if they please) That No Prebend shall be conferred without the King's express Mandate, or Permission and Consent, in a *Conge d'Esire*. This would be at once Despotical, and yet according to Law ; however some in the World are willing to make them Inconsistent : And every Statute would begin with a *Statuimus, Ordinamus, or Volumus & Mandamus* : Which being supposed, I would ask, What hurt would there be in it ? Or, What Ill Consequence could there be of it ? Is the King fit to be intrusted with All the greatest Promotions, All the Bishopricks and Deaneries ? And is he not fit to bestow the Least ? It is convenient, and of good Use, and according to Law, that he should make a Bishop of Sarum, as well as the Dean, and All the Residentiaries, (as at this Day, and in Antecessum for Days and Years yet to come ?) And is it Illegal, or of Ill Consequence, that he should sometimes (tho' seldom) bestow some Few of his own Prebends, even on Men of great Learning, and Holy Life, and in full holy Orders, and that for Term of Life only ? when his Progenitors gave so many even to mere Lay-men, and their Heirs for ever ? The World takes Notice, and 'tis to be Written with a Sun-beam

beam, that generally speaking, and taking one with another, no Preferments are so well given as by the King, and by the Lord-Keeper of the Great Seal, and by the advice of the Lords Commissioners, whom His Majesty hath appointed for Ecclesiastical Promotions. 'Tis certain the *Bishops*, and the *Deans*, and others, whose Preferments are in the King's sole Disposal (not only in his *Supream*, for which certain *Bishops* have a *Subordinate Right derived*) are all exactly of this Opinion: This (I say) is as certain, as it is certain they have a competent good Opinion of themselves, and their own Deservings: They would not else have *accepted*, much less would many of them have *sought*, what many others had deserved as well as they. And if 'tis true that (o) *Neither the Bishop, nor the Church of Sarum, did suffer any prejudice at all, by King James his giving a Prebend unto a mere Lay-man, and to his Successors for ever; (at which saying of a Great Churchman, many good Secular Men have wondered) How much less can his Lordship think it any Prejudice at all to the Bishop of Sarum, or to the Church, or to the whole Order of Church-men, if another Monarch of England shall confer another Prebend (I do not say upon a Lay-man, and his Successors for ever, but) upon One in Holy Orders, and (without a Nepotismo) of Holy Life, and of excellent Learning, and for term of Life only, or so long as he is seen, and Notoriously known, to continue to deserve the Enjoyment of it? 'Tis very well known what was the Judgment of Hen. 8. upon his Death-bed, and of all his Executors after his Death (whereof three were Eminent Church-men, to wit, Arch-*

(o) *This in Scriptis was the Assertion of the present Bishop of Sarum Dr. Ward's, in Answer to the Dean's Narrative,*

Bishop Cranmer, *Tonstal Bishop of Durham*, and Dr. *Wotton*, the famous Ambassador, who was at once Dean of *Canterbury* and *York*, and humbly refused the *Arch-Bishoprick* of the great Province) and also of *All the Privy Counsellors of Ed. 6.* when they decreed to the (p) Earl of *Hartford*, *Six of the best Prebends at once*, and *Three Hundred pounds per annum* out of the Lands of the next Bishoprick, which should fall to the King's Disposal. After which 'twas granted also (at the said Earl's Suit) that his Lordship should have a *Deanery*, and a *Treasurership*, in lieu of *Two* of the said six Prebends : But very far was the *Dean of Sarum* from defending the Alienations of Ecclesiastical Endowments to *Sæcular Men* (as the Lord Bishop of *Sarum* does ;) He was not so little vers'd in *Logick*, as to argue a *Facto ad Jus*. For when he related matters of Fact, and what our Monarchs had done in the Church of *Sarum*, he added, [*Quo jure*, I humbly leave to the Judgment of my *Superiors*.] He only demonstrated, that our Monarchs had acted as *Founders*, and *Proprietors* (which indisputably our Monarchs All are) and have a strict Right (as well as Power) to bestow all our *Prebends* as well as *Bishopricks* upon God's proper *Usu-Fruituaries*, deserving Church-men for term of Life. But whosoever shall consider, what Powers were given to the Lord *Cromwel* by Commission, as Vicar General to *Hen. 8.* and also shall consider those famous Parliaments, composed of the clearest and deepest Heads of those Times, both Spiritual and Temporal, who made the known Statutes of 27 *Hen. 8. cap. 4.* and 13. and 27. 28. and 1 *Ed. 6. cap. 14.* will at least excuse and pardon any Man living who now believes (and

(p) Hist. Reform. Part 2. lib. 1. p. 6, 7, 8, & 9.

with

with a much *Greater force of Reason*) that our King hath a *Supream and Sovereign Right* (from which and under which some of our *Bishops*, as well as *Deans*, have one *Subordinate and Derived*) to dispose of Vacant Prebends now and then, when they please, in their own Cathedrals. And as well may he dispose of *All* our Residentiaries Places (as his now-Sacred-Majesty, and his Royal Progenitors have done) yes, and return them, if he thinks fit, from six to seven, from seven to twelve, and from twelve to fifty-two; and bind them to Residences in their Courses, thirteen every Quarter, according to our several Statutes, both Old and Modern.

Sect. 5. Besides all this, I find it said to the Lords Commissioners, First by my Brethren of the Chapter, [*That His Majesties Power within the Church of Sarum appears to us to be the same, and no other than it is in All other Cathedral Churches in England.*] Next by the King's Attorney General, [*I cannot find that His Majesty hath any other Right in That Church, than in any other Cathedral Churches.*] These Assertions, but especially the First, because of its important Monosyllable *All*, do seem at least to me to imply a Grant, That His Majesty hath the same both Power and Right in the Cathedral Church of Sarum, which he hath, and ever had, in the Churches of Worcester, Norwich, Rochester, Bristol, Gloucester, Oxford, Peterborough, Westminster, Windsor, &c. In All which Churches, as well Cathedral as Collegiate, Every one of the Prebends is in the King's Sole (not only Sovereign) Disposal, (by Himself, or Lord-Keeper,) and not one in any Bishop, or Bishops whatsoever. Yea, even in the Arch-Bishop's

Bishop's Metropolitcal Church of *Cnanterbury*, the *King* has the *Sole* Disposal of *Nine* of the *Twelve* Prebends, and the *Arch-Bishop* of but *Three*. Tho' the *Primate* of all *England* and *Metropolitan*, should have as much Power and Right, (a man would think,) within the Cathedral of his own Diocess, as any one *Inferiour* Bishop, both *within* his Grace's *Corrections* also; such as the Bishop of *Sarum* is. And I do sometimes ask my self, what Inconvenience could there be, if the Bishop of *Sarum*, or any other who is Subordinate to the *Archbishop*, (as the Archbishop to the King,) had no more Prebends to dispose of than the Archbishop hath? Or if His Majesty *now and then* (although but rarely, only Fourteen, or Fifteen, in above 500, years,) should give a Prebend at large of *Sarum*, to a Priest every way qualified with Want and Worth, as well as he gives *All* the *Prebends* in *All* the Churches recited, without Exception? The Church and State might stand firmly as now they do, and Christian Souls might be as salvable as now they are, tho' the King's Power and Right were as much owned by *All*, as it is by me. The Bishops of *London* and of *Lincoln*, and several others, have a most undoubted Right to dispose of Prebends, (such at least as the Bishop of *Sarum* hath,) and that Right the more unquestionable, by being held of the *Supream*, and derived from it, and Subordinate thereunto. A *Sole and Sovereign* Right wholly *exclusive* of the *King's*, (which is all I contend against, and which my Lord Bishop of *Sarum*, seems to aim at, and effect, or else his Lordship and I agree,) I am verily perswaded, none of those Bishops will pretend to. It cannot be said with any Truth, that *All* the Bishopricks

I have named, wherein the King gives *All* the Prebends, the Bishops none, are not of *Old*, but *New* Foundation. For *Worcester*, and *Norwich* are very *Old*; *Canterbury* and *Rocheſter* two of the *Oldeſt* we have in *England*. Beſides that, the King's Power and Right in the Church of *Sarum*, is greater than in many others; not only becauſe of his *Old Free Chappel*, which I ſhall prove in the next Chapter (and cannot be diſproved by ſome *Negatives*, from ſome Interſted and Paſſionate Oppoſers of the Prerogative,) but alſo becauſe the Kings of *England* were the *Co-Founders* of that Cathedral in a Literal Sence, as well as *Founders* in the Sence of our Common and Statute Law: The *Co-Founders* at leaſt, becauſe *Oſmund* had his *All* from the Bounty of *Will. 1.* and held his *All* of that King's Favour, under Knights Service during Pleaſure, for which I cited *Mr. Selden* and *Matth. Paris*, in the firſt *Seſt.* of this Chapter. King *Hen. 1.* in one day gave 20 Churches to that of *Sarum*, beſides the *Tiſhes* of *New Forreſt*; if the (q) Record which was read by *Sir. Tho. Ridley* ſaid true, which he mentions in his View of the Civil Law. And (paſſing by the leſſer Bounties of *Steph.* and *K. Hen. 2.*) it is confeſſed, that *Hen. 3.* gave no fewer than 20 or 21 *Prebends*, and other things; even *All the Tiſhes* of *all the Kings Forreſts* within *Three Counties*, *Wilts*, *Berks*, and *Dorſet* and the Removal of the Cathedral from *Old* to *New Sarum*, is owned by *Biſhop Spondanus* (as well as (r) others) to have been at the King's coſt chiefly. Next our Kings were *Sole Founders* in the Eye and Sence of the Law, according to the *Maxim* cited before

(q) Part. 3. C. 4. Seſt. 4. p. 190. (r) *Biſhop Godwin* in his account of *Rich. Poor.* p. 276. & *Spondanus ſupra.*

from

from Judge Coke, *Instit. Cart* 2. Chap. 33. upon *Magna Charta*, p. 68. & 44 Ed. 3 cap. 24. And our King at this day, according to that other Maxim in Coke 2 *Inst.* in *Statute of Employments*, p. 742. Whatever Right our Former Kings had, our King hath now.

It seemeth strange to most men, (who have considered the matter thoroughly,) that the King who gets the Right of giving every Ecclesiastical Possession in *England*, not only where *Church men*, but where *Secular men* are Patrons, by promoting an Incumbent unto a *Bishoprick*, should immediately loose *All* even in That very Church where he makes the Bishop: Or that the King who hath *All* in his own Disposal, during the Vacancy of *All* the Bishopricks in *England*, should have *nothing* to dispose of, (without the Bishop's good leave,) as soon as the Vacancies are filled, tho' filled up freely by himself. They are *Betrayers of the Churches Rights* who go about to *undermine and betray the King's*; And they tempt the King and his Royal Successors, to let their Bishopricks lye void, as *Q. Eliz.* and her *Ancestors* thought fit to do, even as far as for 20, or 30, yea, for 40, years together. Signal Instances of which in the most of our Churches, if not in *All*, 'twere too easy for me to give, if it would not occasion too great a Length. Alas! we may judge of the King's Regale within the Cathedral Church of *Sarum*, (supposing there had been never a Royal Chappel in the Old Castle, which yet I shall shortly make apparent,) by the *Exercises* of it in other Churches. They having (in their *Pleasures and Displeasures*) Created some Bishopricks, and *Suppress* them soon after; (whereof *Westminster* is an Example:) Dissolved, and Restored; (whereof *Durham* is an

an Example :) United two into one, and again Divided into Two; (an Instance of which we have in *Worcester* and *Gloucester* :) Taken three out of one, (as *Hen. 1.* took *Ely* out of *Lincoln*. *Hen. 8.* *Oxford* and *Peterborough* out of the same :) Tho' the Diocess of *Lincoln* is still the greatest, (its Parishes being no fewer than 1255.) Ordered one Bishoprick to be held with Another in *Commendam*; (as that of *Bristol* with that of *Gloucester* for 23 years together :) Gave the Bishoprick of *Hexam* in Augmentation to the Archbishoprick of *York*; (from which it was taken again in the 37. of *Hen. 8.*) Converted Canons Sæcular into Regular, & *vice versa* made the Prior and Convent of *Westminster* a distinct Corporation from the Abbot: Conferred the Patronage of a Bishoprick upon a Subject; (as *Hen. 4.* that of *Man* upon the Family of the *Stanleys*: Gave Temporalities, and Reassumed them; (as in 14 *Ed. 3.* cap. 3.) deprived Bishops for very small Failings; (Examples of which are elsewhere given.) Subjected them to the Statute of *Præmunire*, and to the Judgments of Sæcular Men; (As *All at once* to the Lord *Cromwel*, and Sir *Jo. Tregonwel* to that of *Sarum*.) Made Inferiour Clergymen to be the Judges of their Superiors; (as the Dean of *St. Pauls* over *Bonner* Bishop of *London* :) Translated Bishops in Displeasure, from the Greater Bishopricks to the lesser; (As *Nevil* from *York* to *St. Andrews* in *Scotland*; and *John Buckingham* from *Lincoln* to *Litchfield*, which was not then half so good :) Made a Sæcular Man a Dean; (as the Lord *Cromwel* Dean of *Wells* :) In a word the same Authority which took four Bishopricks out of *Sherburn*, and added *Sherburn* (with about 40 Parishes about it) to the Dean of

of *Sarum's Jurisdiction*; And gave away the Jurisdiction of the Rest of all *Dorsetshire* from the Bishop of *Sarum* to that of *Bristol*, (but never gave away one from the *Dean of Sarum*,) can give a Prebend of *Sarum*, or a Residentiaries Place, to any man in full Orders, and that *de Jure*; for to a Layman, and *de facto*, it has frequently been done. And if the Corporation of *Dean and Chapter* is not of the King's Foundation, when the *Bishoprick* is by all Confessions, and by the frequent Declarations of the *Law*; why have our Kings disposed oftener of the Residentiaries places, than of the Canonries at large without Residence? Why should any man dispute against his Kings being his *Founder*? Can he pretend to have a better? Or will he pretend to have none at all? 'Tis true that *Osmund* was a Secondary and Subordinate Founder of many Prebends. But His *Founder* and Royal *Master*, was worthily reckoned as the *Supreme*, with which Distinction it is as true, the *Dean and Chapter* have a Right to choose their *Bishops* as well as *Residents*. But both in a subserviency and subordination to the *Supreme*, wherewith their own must stand, or fall. The Reverend Arch-Deacon (f) *Fulwood* hath enough, whereby to clear the King's Patronage of the whole *English Church*; and he cites Archbishop *Bramhall*, producing several Laws for it. The *Affize of Clarendon*; the *Statute of Carlile*; the *Statute of Provisors*. All asserting the Power and Patronage to be *de jure* in the King, which was *de facto* in the Pope, and by *Usurpation* (r) The Parliament told the King plainly, That the

(f) *The Established Church*. c. 12. p. 144. &c. (r) 25 Edw. 3. Stat. 6.

28 *A Vindication of the Chap. I. §. 6.*

Right of the Crown is such, and the Law of the Land too, that the King is bound to make Remedies and Laws against Incroachment on his Prerogative.

SECT. 6. Lastly, I must in my Narrative (in imitation of the most Learned and most Judicious Bishop Sanderson,) assert the Bishops Right, as well as the Chapter's, and mine Own, (both as jointly with them, and as Separate from them) upon what I think the *surest and safest Ground*. Only I could not find in my heart to take down that Scaffold, or to invalidate those stairs, unto which we all owe our own Advancement. I was really afraid to betray the Church, by asserting the Churchmen's Right with an Exclusion of the Kings, as I am sorry some do, to the endangering of the whole Body. For 'tis to Expose her as an Orphan to a very unkind world; sadly stripped of the Patronage, and so the Protection of the King, who is her Guardian, and Nursing Father, to whom the Church owes her Safety, (if not her Being;) and without whose Royal Patronage she cannot comfortably subsist: The Church (in our Laws) being evermore a (u) Minor, ever a Pupil under Age; as utterly destitute of help, as ever any Expositious and Forsaken Child was, without that Guardianship and Patronage, that Royal Right and Prerogative, which some (who live by it) have lately attempted to Undermine. In this my Sentiment if I have erred, it is with the Great Man I just now mentioned as my Exemplar, in that Book which he composed by the special Command of King

(u) Coke Inst. Part. 2. upon Magna Charta c. 1. p. 3. where Fleta, Bracton, Glanvil and others are cited by him.

Charles

Charles the First of Glorious Memory, proving *Episcopacy in England not at all Prejudicial to Regal Power*, (which some would make *Destructive* of it,) by the same way of arguing which I have used. (w) The shortest Account which I can render of it is this: All Episcopal Power is either of *Order*, or *Jurisdiction*; hereof the latter is either *Internal*, or *External*; and this last is either *Directive*, or *Coercive*; the first is from God, the Second wholly from the King (as is declared by our Laws, and acknowledged by the whole Loyal Clergy.) Yea that Power which is from God, (as that of *Preaching*, *Ordaining*, *Absolving* and the like,) is so subject to be *Inhibited*, *Limited*, and otherwise *Regulated*, in the outward Exercise of that Power, by the Customs of the Land, as that the whole Execution of that Power does still depend upon the Regal. Now (x) All *Jurisdiction* being Confessedly from the King, it seem's to follow, that all *Prebends*, as well as *Residentiaries* places of the Old Foundation, which have a *Jurisdiction* belonging to them, (as those of *Sarum* are known to have,) are disposab'le by the King, when, and as often, as His Majesty sees Good. Pope Nicholas could not deny it, and therefore Granted it very cunningly to *Edward the Confessor*, with a *Vobis & Posteris committimus Advocacionem &c.* We commit the Advowson of all the Churches of (y) England, to you and your Successors, Kings of England. So that if the Popes Grants are of any value, (before the Statutes of

(w) See *Bishop Sanderfon's said Book*, especially pag. 30. 31. to pag. 34. 35. &c. (x) In *ibid.* p. 45 where *Bishop Sanderfon* cites the Statute of 1 Ed. 5. and makes an wholesom use of it, p. 45, which compare with 1 Eliz. c. 1. (y) *Baronius* A. D. 1059. n. 23.

Provisors and Premunire, (by which the *Composition*, in it self Evil, was made much worse, as having been when those Statutes had made it *Criminal*, for the Subjects of *England* to petition a *Bishop of Rome* for a Confirmation; the Regal Right I plead for has a double Title, and is not questionable by the *Papalins*, much less by the men of the *Church of England*.

Now whereas I did distinguish (with the Judicious *Bishop Sanderson*) between an *Original*, and *Derivative* Power of Jurisdiction, (where-with I have been twitted, in derogation to the Kings Honour, to whom it seems I ascribed more, than Malignity will allow, tho' no more than *Bishop Sanderson*, whose Loyal performance justifies mine,) And after shewed the Great Extent, with the greater *Intensiveness*, of my *Derivative* Jurisdiction as Dean of *Sarum*, which had been a most *Extravagant* and *Unaccountable* Jurisdiction, if the first Deans of *Sarum* had not been Deans of the Kings *Free Chappel*, (before the Cathedral Church was built, and before *Bishop Herman* was the first Bishop of it, as well as during all his time, which I shall prove to be as clear as the Sun at Noon in a fair day,) I will justify my self in my so magnifying my Office, out of mere Gratitude to the King, and to show his Royal Bounty as well as Power, in the words of the said meek and most Learned Prelate. *The more a Derived Power is extended and enlarged in the Exercise thereof, (so as to be Regular) the more it serveth to set forth the Honour and Greatness of that Original Power which granted it. Since the vertue of the Efficient Cause is best known by the Greatness of it's Effect. For—Propter quod unumquodque est Tale, Illud ipsum est magis Tale; as the warmth of the Room doth*

doth not lessen the Heat of the fire upon the Hearth, but is a sign of it's Greatness, &c. From all which it follows, that the Dean who does as modestly, as he does thankfully distinguish, between his own but derivative and Subordinate Rights, and the Rights of the King which are Original and Supreme, cannot magnify his Office, or defend his Jurisdiction (according to his Oath and bounden Duty) with too much Zeal; whilst they who hate that Distinction, (as by me it hath been used,) and will have the Sole Right to dispose of this or That, Exclusively of the Kings, are neither so modest nor so thankful, as I sincerely wish they were: They maligning their Maker's Power, whereby they are what they are. I will add *ex abundanti* what may conduce to Their Conviction, (in this great Article of our Religion,) who would be thought of the Church of England (x) It is a Principle in Law, that of every Land there is a Fee simple in some body: But the Fee simple of the Land of a Prebend cannot be in the Bishop, or in the Prebendary, (both being at most for Term of Life, and both Subject to Deprivations, for less then Treason, or Felony,) therefore 'tis in the King, as Original (a) Founder, whose Royal Right can never dye. King Hen. 8. and Ed. 6. did act accordingly and the (b) same Authority which was made use of by Hen. 8. and Ed. 6. was declared by Parliament to be in Q. Eliz. her Heirs, and Successors. (c) Nor can any Discontinuance be any prejudice to a King's Right, who therein hath this Prerogative, *Quod nullum Tempus*

(x) Littleton §. 648. & Coke upon him. p. 344. (a) Paolo Scarpi, ubi Supra. n. 77. pag. 23. (b) Stat. 1. Elizab. 1. (c) Coke 1. Inst. l. 3. fol. 344.

occurrit Regi. “And (d) when a King ordains
 “any thing for the Honour of God and the
 “Church, he Wills not (saith my Lord Coke
 “(e) that it turn to the Prejudice of Him or his
 “Crown; but that his Right should be saved in
 “all Points. Besides the Church is for ever in
 “Law a *Minor*, (as I observed before) *semper in*
 “*Custodia Domini Regis.* And ’tis unnatural that
 the Guardian should have nothing to dispose of
 (not so much as a Prebend) in the *Minority*
 of his *Pupil*, to which he is a *Nursing Father*.
 The King’s Possession and Rights (saith the same
 (f) Oracle of the Law) are called *Sacra Patrimo-*
nia, & Dominica Corona Regis: So that ’tis *Sacri-*
ledge to invade them. Nor can he so make them
 away, but that at one time or other they will re-
 vert unto the Crown. He is in Law *Summus*
Dominus supra Omnes, (still the words of Chief
 Justice Coke,) of whom are held either *mediately*
 or *immediately* All the Free Lands of England,
 much more all Ecclesiasticals for term of Life
 opely, or *Quam, diu bene se gesserint Possessores.*
 Lastly, The King is not only the *Legal Founder*
 and *Patron* of all the *Bishopricks* in England, and of
 all contained in them; (as *Causa Causa* is ever
Causa Causati) But he is himself in Person, the
 Supreme and Sovereign Bishop of every Diocess
 in England. It being the true and known saying
 of *Constantine the Great*, (an Englishman born,
 and King of Britain, as well as Emperour of
 Rome and Constantinople,) in his Speech unto the
 Fathers of the first *Nicene General Council*,

(d) *Westm.* 1. 49. & 3. *Ed.* 1. *Wing.* p. 378. (e) *Coke ubi*
supra Inst. p. 3. (f) 1. *Inst.* 1. 1. & 2. 1. & *Star.* Je *Westm.*
 c. 1. p. 301.

And every body knows, that the perpetual Advocacion or right Patronage of is a *Lay Fee*; as peculiar to many Lay Subjects, (much more to the Sovereign, *quoniam intra Ecclesiam potestatis Culmen habet*, say the Canonists themselves,) as Institution to a Subordinate Bishop, or other Ordinary, and Induction to an Archdeacon. Especially when the thing presented to is without Cure of Souls, as *Prebends* are. For where a *Parsonage* is the *Corps* of any Prebendary at large, and demised for three Lives to a Secular man, (as most commonly it is,) the cure of Souls is wholly devolved and incumbent upon the *Vicar*, if at least there is a Vicaridge endowed; and if not, upon the *Curate*. But the Rector and his Tenent are both *Exempt*.

Briefly our Monarch has a Right, as well by Common, as *Statute Law* (and the Deans of *Sarum* have ever been largely Partakers of it by *Royal Bounty*) to (b) *Exempt* what Place he will from every Bishop's Jurisdiction; and (when he will) from the *Arch-Bishops*; such as *Pool*, and other places in the possession of Sir *John Webb*: Every Ordinary in England (such as is the Dean of *Sarum* in the *Close*) is an (i) *immediate Officer* to the King's Courts. And to the King Appeals lye even from the Court of *Arches*: His Majesty being in Law, *Le dernier Resort de la Justice*; yea, in Places exempt, no Archbishop may intermeddle, according to 25 Hen. 8. c. 19. 6. and c. 21. §. 20. (i) And all Jurisdiction Ecclesiastical being both derived from, and inseparably annexed to the Imperial Crown of this Realm, and that for ever, by (k) Acts of

(g) *Euseb. in vita Constantini*, l. 4. c. 24. (b) *Coke* 1. Inst. l. 2. c. 11. *Sec.* 136. f. 96.—a. and f. 344. (i) 2 Inst. c. 19. p. 298. (k) 1. Eliz. c. 1. § 1.

Parliament; from thence it is, that a Convocation cannot meet, without the King's Writ; nor treat at their meeting, without his Commission; nor Establish any thing when Commissioned, without his Royal Assent and Fiat. They who say less than this, Do make Episcopacy Prejudicial to Monarchy (which Bishop Sanderson could not endure) and set up a Papal like Supremacy in a Protestant Kingdom. A Loyal Subject and Son of the Church of England, will conscientiously distinguish, with Padre Paul, and the Canonists (1) between Dominion and Dispensation; and then he will dutifully concede, That where the Bishop is Dispensator, the King is Dominus.

CHAP. II.

What I said in my (unprinted) Narrative of the King's Castle at Old Sarum, and of the King's Free Chappel in it before the Cathedral Church was built (All which is gain-said by the present Lord Bishop of Sarum in his Answer to the said Narrative) I take upon me to prove, and to place beyond Dispute, by not a few of the best Historians who have written of those Times, whose printed Writings are extant, and do confirm what was produced out of the Dean of Sarum's Register, which was extracted out of the Registers (for the most important Part of it) of the Ancient Bishops of Sarum; and which I

(1) Paulus Scarpinus ubi supra. n. 85. 86. 87. Tancredus and Lindwood Provin. 1. 3. Tit. 2. pag. 125. 126.

thought

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thought had been Sufficient, without the Confirmations of it which now ensue.

Sect. 1. First, 'Tis plain from William of Malmshury, (m) that the said Castle was the Peculium of the King, and stood upon the King's Soil. *Castellum Salesberie Regij Juris Proprium erat.*

Sect. 2. Next 'tis Evident from the same, and from other old Authors of greatest Note, such as Eadmerus, Florentius Wigorniensis, Roger Hoveden, Simeon Dunelmensis (All elder than Matthew Paris) and Matthew Paris himself, and several others, that the said Castle was a Place of Usual Resort for the Kings of England, and sometimes for Extraordinary Meetings: As for Example;

A. D. 1086. (n) Aug. 1. William the Conqueror pointed his Bishops, Barons, Sheriffs, and their Milites, to meet him at Saresbury, where, and when, the said Milites took their Oaths of Fidelity to him. So saith Florentius of Worcester (the Ancientest Writer, who hath mentioned the Church of Old Sarum) and Roger Hoveden.

This precisely was the Year wherein was compiled the *Doomsday-Book*; as the same Authors, and the Book it self Witness.

A. D. 1096. W. Rufus held a Council in his Castle at old Sarum (as the same (o) Authors testify) when *Osmund* was present, and took the

(m) *W. Malm. Hist. nov. l. 2. Sub initium. Flor. Wig. ad An. 1086. Hoveden ad eundem. An. Daniel in the Life of Rufus. p. 49. Eadmer. p. 55. & 117. (n) Cambden in Wilt. calls them all the States of England and saith that of every penny of the 3d. penny of Sarum the King had 20. s. (o) To whom add Daniel, p. 48. a good Historian, tho' not an old one.*

Confession of *William de Alvery*, before he went to Execution.

A. D. 1100. *Henry I. le Beauclerc* newly Crowned, held his Court in the same Castle. Arch-Bishop *Anselm* repairing thither to His Majesty among the rest. So saith *Eadmer*. p. 55 (p) He also held an Assembly of the Three Estates at Old *Sarum*, which had from that Time the Name of Parliament.

A. D. 1116. The same King called a Meeting of the Bishops and Great Men of the whole Kingdom at the same Place, there to do their Homage to his Son *William*. So saith (q) *Eadmer*. pag. 117. *Florentius*, and *Hoveden*.

Hitherto is no mention of City, Town or Village, but of the King's Castle only: Which *W. Malmsh.* thus describes, (r) *Salesberiam, quod est vice Civitatis Castellum locatum in Edito muro vallarum non exiguo.*

A. D. 1140. (s) The Arch-Bishop of *Roan* in the Council at *Winchester* maintained, that by the Canons of the Church, Bishops could have no Right to hold Castles; and that if they were tolerated by the King's Indulgence, they ought in times of Danger to deliver up the Keyes. Here the Question then rise (as *Camden* (t) tells us) Whether Bishops might be the Governors of such Strong-Holds, which was determined by a great Church-Man Against the Bishops in general; and in particular against the then Bishop of *Sarum*, whose monstrous Avarice, Pride, Perfidiousness, and

(p) A. D. 1133. *Dan in his Life*. p. 57. (q) *Eadmer* p. 187. *Flor. Wigorn. & Rog. Hoved.* ad an. 1116. (r) *W. Malm. de Pontif.* l. 2. f. 142.—b. (s) *Daniel in King Stephen* p. 61. (t) *Camden in Wilt.*

Ingratitude, are by none so well expressed, as by our excellent (u) *Bishop of Hereford, de Praesulibus Anglicanis.*

SECT. 3. Thirdly, During the Time, *Herman*, the first Bishop of *Sarum*, in point of Time (tho' *Osmund* was the First in point of Dignity, and Endowment; and the (v) First who had any Cathedral Church, or Chapter in it;) It is agreed by All Authors, both Printed, and in Manuscript, That there was not yet any Cathedral Church, or Chapters either within, or without the King's Castle: But only a Chappel, and a Dean, as now there is at *Whitehall*. For

No one Author in the World did ever say, that *Bishop Herman* did build the Church; the most that is said of him, is said by *Bishop Godwin*, That *Herman* laid a Foundation; and having so done, he dyed. (x) But his Churches was in the Air, like some men's Castles; a meer Imaginary Church, and the Child of Phantasy. Nor indeed could it be more. For by the Command of *Will. 1.* he had left the two Cathedral Churches of *Sunning* and *Sherburn* to the Dean, who then was *Formaliter* (as *virtualiter* ever since) *Dean of the King's Free Chappel* only (without a Chapter or

(u) *Bishop Godwin* in *Roger*, the 3d. Bishop of *Sarum*.

(v) *Ego Osmundus pontifex, Ecclesiam Sarisb. me construxisse, & in ea Canonicos constituisse, &c. Mag. Char. Osmundi in Statut. de Collatione Praebendarum. f. 36. — b. 37. — a. (1) What is said by *Malmesb. f. 181. (fol. 91. edit. London)* is not said of *Bishop Herman*, but *Bishop Roger*, who being after *Osmund*, makes it nothing to the purpose. Besides, that 'twas written when *Roger* was in *Greatness*, and flattered for it, *De gestis Reg. l. 5.**

a Church;) And in whom, as their *Sole Ordinary*, *Summing* and *Sherburn* have ever since been, with many *Peculiars* belonging to them, in *Berks*, and *Dorset*, in *Wilts*, and *Devon*; (to which I might have added the County of *Oxford*, were it not that the said Dean has little Jurisdiction there, tho' there he has some.) *Herman's* time was too short to build a Church at *Old Sarum*. He did rather design a Church, than so much as lay the Foundation of it. But All agree, That the Favourite *Osmund* (a Captain of *Sax* in *Normandy*, who came in with the Conqueror, from whom he had All he had, and in whose *Castle*, whereof the King made him the *Governour*, *Conicerge*, or *Keeper* he found no more than a *Royal Chappel*;) both (y) Built and Repaired the Cathedral Church there, whose Steeple was burnt the next day after its being Finished. How by his Master's great Bounty, as well as *License*, He added a Chapter to the Dean, besides three Dignitaries, four Arch-Deaconries, &c. hath been expressed in my Narrative, and remains Uncontradicted. What his Lordship cites as the Work of Mr. Bee, Sir *Roger Twisden* was the chief Designer of, and must not be defrauded of the Honour due to him for that Collection.

Self. 4. Fourthly, 'Tis acknowledged by my Lord Bishop himself (so God will have it many times, that Truth shall be justified by its Opposers, even in the Act of their Opposition) that *The Church of Old Sarum was Always a Ca-*

(y) See H. Knighton, apud. Bee. fol. 2351. and Bish. Godwin, p. 272. & Osmund's Chartar. ubi supra.

thedral; which is as much as to say, *There was not any Church there, until there was a Cathedral Church.* And 'tis as evident as the Sun, that no *Cathedral* could be *there*, before the *Bishop's Seat* was removed *thither*: Nor *then*, till it was built by *the King and Osmund.* And therefore,

Señ. 5. Fifthly, The King had a *Chappel*, for Himself, and his Royal Family, and his Great Council to Serve God in (as none in their way were more (x) Religious than in those Times) before he had in that Place a Cathedral Church. For besides the Absurdity and Incredibility, that in the King's special Mansion for Strength and Pleasure, wherein he had the Great Conventions of the Lords Spiritual and Temporal, and a Family in his Absence consisting of *Souldiers* as well as *Servants* (sometimes called *Ministri Regis*, and sometimes *Milites*) He should not have so much as a private Free-Chappel for publick Worship; I say besides This it appears as by others, so by *Radulphus de Diceto*, that the King's Castles in those Times had Chappels in them, for the King's Honour, as well as Use. — *Ventilata autem est hac Causa prius* — in *Paschali solemnitate in CAPELLA REGIA* *que sita est in CASTELLO.* This is confirmed by what was said in the Chapter's Accusation of *Bishop Erghum* to *Arch-Bishop Sudbury.* (a) *Infra castrum Domini Regis, & in Ipsius Solo, nullatenus Episcopi Sarum, primitus extitit fundata Ecclesia, ut Libera Capella*

(x) Will. 1. was so eminent for Devotion, that 'twas confessed by his Haters So saith Daniel in the Life of Will. 1. p. 43. Rad. de. Diceto A. D. 1072. p. 485. (a) Registr. Jo. Davysone. Dec. A. D. 1375. fol. 13.

ejus, ab omni Jurisdictione Diocesani exempta, plena libertate, more aliarum Regiarum Capellarum Angliæ, gaudebat, &c. Which Free-Chappel of the King was never denyed by Bishop Erghum, and was owned in the Sentence of the Arch-Bishop for the said Chapter Against that Bishop. And as the King's Chappel first, before the building of the Church; so the Church, as soon as built; and the Church-men, as soon as Founded, were every whit as much within the King's Castle, as the old Bishops of Sarum's Registers were able in Latine to express them. (b) *Continetur in Annalibus Pontificum inter Gestæ bonæ memoria Domini Richardi Episcopi Sarum, quod antiquitus Canonici Ecclesiæ Sarum residebant infra Septa Castri Veteris Sarum, usque ad tempus Supradicti Pontificis. In cujus Tempore oria erat Persecutio, &c. ratione cujus, Rex Angliæ præcepit omnibus Vicecomitibus, & Castellaneis suis, quod curarent, quatenus Loca Regia ubique Regio Usui Custodirent, non obstantibus quibuscunque Privilegiis Ecclesiasticis.* Then it follows at large, that the Cathedral Men going out of the Castle in Procession, had the Gates shut against them by the King's Soldiers or Servants at their Return.

Seft. 6. Sixthly, The Church, after it was built (as well as the Chappel before there was a Church) was evidently situated within the King's Castle, Infra Castrum Domini Regis, as is attested by the Printed and Written Records of those Times, which my Lord Bishop contradicts gratis; but I suppose thro' their Failures, whom his Lordship entrusted and employed. The Ancientest Writer extant, who mentions that Church, writes

(b) Regist. Davysoni fol. 3.

thus

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thus expressly : (c) *Osmundi Searesbiriensis Episcopus Ecclesiam quam Searesberia in CASTELLO construxerat cum adiutorio Episcoporum Walcelini Wintoniensis, & Johannis Bathoniensis, Nonis Aprilis, feria secunda dedicavit.* Others who are Ancienter than *Matthew Paris*, and more Authentick have the same Words: To which agrees that Ancient Distich, which is cited by *Bishop Godwin*, and by *Camden in Wilt.* pag. 180.

“ *Quid Domini Domus in Castro, nisi Faderis Arca,*
“ *In Templo Baalim? Carcer uterque, Locus.*

And this with very great Reason. For All the Prebendaries or Canons (two Words for one Thing, not two Things, as the King's Attorney was made beleive) and All other Church-men, except the Dean (who had an *House* and *Demeasnes* by the Rivers side, about half a Mile below the Castle, called still the *Dean's Court*, as *Mr. Barker's House* in *Summing* is to this Day called the *Deanery*) were but as *Prisoners* in the King's Castle (compared with what they are now (for above *One Hundred Thirty Four Years*. And accordingly *Bishop Poor* made it the Ground of his Complaint both to the *King*, and to the *Pope*, as that on which he then built, his Retition to Both for a Removal, — *Ecclesiam de Castro & de (d) Carcere Regalis Potestatis laborabimus adificare, &c. posthac autem accessit ad Regem Angliæ, petens ab eo Licentiam, &c. — & postulant ab eo tanquam*

(c) *Flor. Wig. A. D. 1092. with whom agrees Hoveden; & Simeon Dunelmensis, and Petrus Blesensis cited by Camden in Wilt.* (d) *Regist. Jo. Davysoni. f. 3. — a. &c. inter gesta Richardi Episcopi Sarum.*

a Domino suo manus adjutrices. Cui Rex benignissime præbuit assensum, &c. Lastly, 'tis confirmed by those words in the Bull of Pope *Honorius* the Third. (e) *Quod non patet aditus ad Ecclesiam sine Licentia Castellani.* Peter of Blois agrees with all these.

 From all the Premises it is clear, That the Church was not only within the Precincts of the King's Castle, which yet is sufficient to prove it stood on the King's Soil (however denyed by his Lordship :) But also within the Castle it self, strictly and properly so called.

Sett. 7. Seventhly, As the Castle and the Guard of Souldiers in it, and the Ground in which it stood, have been evidently proved to have been the King's; so 'tis evident that the Bishop held the Castle but as a Keeper, or as a *Maistre d' Hostel*, or as a Tenant to the King, or at most as All Governors of Garrison-Towns and Castles, do hold them *pro Tempore* for the King; and even so both the Bishops, and Earls of *Sarum* (the Earls longer; very much longer than the Bishops) held it only in Trust; and during Pleasure. Whence it was they were so (f) often put in, and out, as our Kings saw good; and as I shall hereafter shew at large, even out of such Publick Monuments as are confessedly the Best. This appears by the Grant of it to Bishop Roger, as Great a Man with *Hen. 1.* as *Osmund* was with his Father *William*, tho' of a far more contemptible and Base

(e) *Evidentiarum.* Tom. 20. f. 120. (f) Camden in *Wilt.* names but one or two Bishops, whoever had it; But a Long Train of Earles, who had part of the Old Castle for a dwelling House a long time after the removal of the Cathedral & Townsmen.

Beginning,

Beginning, and one who grew Great by the basest means. *Malmisbury* sets it forth thus.

“ *Castellum Salesberiae* (or *Sedberia*, as *Eadmer* calls it) *Quod Regij Juris proprium esset*, ab *Henrico Rege* impetratum muro cinctum, *Custodia* suæ attraxerat. Thus *Osmund* held it as a *Custos*, of *Will. 1.* and *Will. 2.* and *Roger* as a *Custos*, from *H. 1.* who found it encompassed with a Wall, which Wall about the Castle seems to be all, which gives any Colour for that saying of my Lord Bishop, That *Roger encompassed the City with a strong Wall*. Whereas the Castle so encompassed was not *Civitas*, but only *vice (y) Civitatis*, as *Will. of Malms.* precisely words it: Thus the word *Tenet* is explained in *Doomsday-Book*, *Episcopus Tenet Saresberry*. And thus what follows asserted by my Lord Bishop's, [That the Castle it self did belong to the Bishop] does of it self fall to the Ground, without any stricter Examination of the Proofs, which do not say any such thing, as that for which they are pretended to appear: But the contrary rather is from thence to be inferred. Nor do I see to what purpose those words are added by my Lord Bishop in the *Margin*, [*vid. Bee. fol. 2351.*] unless it be to confute the Text. The Place is in *Henry Knighton Leycestrensis*, who did not write till 300. years after, reaching to the Death of *Rich. 2.* about 1400. and who speaking of the King in Council, commanding the removal of Bishops Sees, does add these words — *Hoc anno Hermannus Episcopus Primus Sarisburiensis Obiit. Cui Successit Osmundus Regis Cancellarius 24 annis, Qui Ecclesiam Novam, not Renovatam ibidem construxit.* Thus his Lord-

Malm. Novel. l. 5. (y) De Pontif. ubi Supra.

D

ship's

ship's Citation makes quite against his own Pretensions. *Osmund* did not only repair, but first built the Church, which *Herman* at most did but design. So *Matth. Paris* in the place cited, calls it (not the Bishops, but) the *Earl of Sarum's Castle*. For *Will. 1.* gave it to *Walter d' Evereux* (2.) *Earl of Rosmar* in *Normandy*, as to a *Keeper*; so *Hen. 1.* gave it to *Bishop Roger*, from whom it was taken by *King Stephen*, as from a *Monster of Ingratitude*, and as from a *Perjured Rebel*. Then the *Custody* of it was given (not to the Bishops, but) *Earls of Sarum*, and was continued in them by *Ceur de Lion R. 1.* and *King John*; after whom it was taken by *Hen. 3.* from the Grandson of *Will. Longespee*, and given to *Margaret Countess of Sarum*, whose husband being attainted, 'twas resumed by *Ed. 2.* and after given by *Ed. 3.* to *Will. Montacute*, of whom tho' bought by *Bishop Wivil* for 2500 Marks, (not recovered by Law, nor won by Combat,) 'twas yet soon resumed; and given by *Hen. 4.* to *Rich. Nevil*, whom he made *Earl of Salisbury*. 'Twas after given by *Ed. 4.* to his Brother *Richard Duke of Gloucester*. At last *Hen. 8.* restored the blood of *Margaret*, and made her Countess of *Salisbury*. After whose Attainder and Decapitation, (when she was 70 years old,) in the year 1605. *King James* gave it to *Sir Robert Cecil*, and his Heires, in whom it is at this day, and is rented by the Good Relict of the most excellent *Bishop Earl*.

Thus we see to how few *Bishops*, and to how great a Number of *Earles*, the *Custody* of the said Castle was Concredited by our Monarchs from time

(2) *Castrum Comitum, (non Episcopi)* *Matth. Paris* fol. 439. *Camden* in *Wilt.* *Bishop Godwin* p. 280.

to time, as its *Keepers* were esteemed more or less worthy to be entrusted. And to argue it was the few *Bishops* Soil (two or three at the most,) or the Soil of the many *Earls*, because our Monarchs made them Governours during Pleasure; is as if a man should argue, that the City of *Oxford* (when it was Garrisoned) was not the Kings, but Colonel *Leg's*, Sir *Arthur Aston's*, Sir *Thomas Glenham's*, &c. because they were the Governours, unto whose *Custody* 'twas committed. Or that the *Castle of Windsor* is the *Earl of Arundel's*, exclusively of the King, because the King gave him lately the *Honour* of it.

Now having proved that the *Castle of Old Sarum* was the Kings; and that the King's *Servants* (a) were in it, for more than 130 years; and that the *Cathedral Church of Sarum* was (b) within the Kings Castle; (which yet was confidently denied to the Lords Commissioners;) and that our *Kings* from the Beginning have Acted in as Absolute and as Despotical a manner in and over the Church of *Sarum*, as in any of their own Mansion Houses within these Realms; Common Sense will infer, and inform the most indocile, That where the King (*William the First*) had a Castle and Family in it, he had a Chappel for God's Service, and his Chappel was Free. How strange a thing therefore is it, for men to lessen that Monarch in his Prerogative, who did not only make them, but does still keep them Great. How often had the Hierarchy been trodden utterly under foot, if the King singly had not Sustained them? How many Parliaments may be convened, who will Vote down All Bishops, and Deans, and

(a) *Ministri. D. Regis,* (b) *Infra Castrum Domini Regis.*

Chapters, (*ab Actu ad potentiam optime valet Argumentum*;) if the King will prompt them to it, or but Consent when it is done? They who look downwards upon themselves, but neither backwards, nor forwards, on the years that are passed, and the years to come, do not consider what Protections they have received from the King (at the King's great cost,) or what Protections for the future they may have a sad Occasion to wish and pray for.

And here I should have ended this 2d. Chapter, but for a Passage out of the Annals of *Burton Abby*, MS. 1245. Which shews that even then, in the Time of *Hen. 3.* (long enough after *Osmond*, and *Will. 1.*) the King of England had *Many Free Chappels*, and was resolved to keep them Free. Indeed so many, that diverse Parish Churches which did but Neighbour on the King's Castles, were apt to pretend to that Priviledge. Yea the Chappels in the King's Castles were Confirmed in their *Immunities*, *Exemptions*, and *Liberties*, by Popes themselves: As appears by that Kings Proclamation Dated, at *Westminster March the 3d. in the 30. Year of His Reign*. Wherein he strictly Commanded, that the said Freedom of his Chappels should be (c) *Perpetual*. *Et ne Aliquis contra pradiatum Privilegium aliquid audeat attemptare*. Nor hath any of our *Monarchs* taken away or surrendered that glorious Branch of their Prerogative; whatever *Subjects* have attempted by joining with *Boniface the 9th.*

Burton de Libertate Capellarum Domini Regis, 1245
(c) Volentes Privilegium Illud in perpetuâ firmitate manere.

C H A P. III.

WHereas 'twas affirmed by the Bishop of Sarum to the Lords, *That there never was a Time when either the Dean and Canons were exempt from all Jurisdiction of the Bishop of Sarum.* The contrary to it is *confessed and strongly proved by his Lordship himself in the very next Words following, wherein his Lordship cites The Composition* that was made between Bishop Waltham, Dean Montacute, and the Then Chapter of the said Church, which was no longer since than in the Year 1391. whereas the *Absolute Exemption* of the Dean and All the Canons from the Bishops Jurisdiction, was in the Year 1095. Between which two Dates, there was an Interval of almost 300 Years.

Which *Composition*, so called, was indeed a *Conspiracy* of the said Bishop, Dean and Chapter with Pope Boniface the Ninth, by whom it was confirmed, and for which by the Laws of England (even (c) *Then in force*) they did incur a *Præmunire*: Which All the Bishops ever (d) since are humbly conceived to have incurred, who have presumed to Act according to *That Conspiracy*, I. Against the Supremacy, and Prerogative of the King; II. Against the Common, and Statute Law of the Land; III. Against the Fundamental Statute of our Subordinate Founder *Osmund*; IV. Against their own Souls in two respects, first in respect of the Several Oaths, which

(b) 25 Ed. 3. c. 22. 7 Rich. 2. c. 12. (d) Judge Jenkins, p. 24. say, 'Tis Treason to pay Obedience to the Pope, or to any other than to the King. For which he cites 23 Eliz. cap. 1. and 3 Jac. cap. 4. §. 22, 23.

have severally been *Sworn* by all the Bishops, Deans and Chapters. That they would keep, and cause to be kept (as much as in them lay) that Fundamental Statute of *Osmund*, with all the Privileges, Dignities, Immunities, and Exemptions therein contained; of which Oaths the said Conspiracy or Composition is a *Professed* Violation, as shall be shewn in its proper place. Secondly, in respect of the heavy Curse, which *Osmund* denounced against All those who should dare to pervert the said Fundamental Constitutions in any kind. V. Against its own *Being*, by reason of its several *Inconsistences* with it self, and of the several Nullities contained in it. Lastly, Against the *Well-being*, if not against the very *Being* of the whole College within the Cathedral Church of *Sarum*, by reason of its most scandalous and most mischievous Effects. But of each in its Order.

§. 1. First, It was a Conspiracy against the King of *England* and his Prerogative, who is in Law declared to be the *Founder* as well as *Patron* of all the Archbishopricks and Bishopricks in *England*, but took care in his Original Charter granted to his Favourite *Osmund*, (sealed first with the Seal of *Will. I.* and then with the Seal of *Will. II.*) to exempt his Dean and All his Prebendaries or Canons from the Bishops Jurisdiction in as full and as plain a manner, as Latin words could express an *Exemption* by. In words so carefully contrived against all possible Affectation of Jurisdiction over the College of Dean and Chapter in any succeeding Bishop of *Sarum* that what the present Lord Bishop of *Sarum* would make an Argument for himself and his Affected Jurisdiction,

Chap. I. §. 6. King's Sovereign Rights. 49

diction, makes quite *against* him. For the *Voice* and the *Place* which the Bishop has in *Chapter* (common to him with all the §2 Canons) he has as *Prebendary of Pottern*, not as Bishop of *Sarum*; nor has he so much as a *Second Voice* as he is *Prebendary of Blewbery*, because he was never admitted to it by *Installation*, nor lawfully could be. For when *Hen. 2. had given two Prebends to One man in one Church*, Pope *Alexander the Third* complained of it in his Letter, as *Unlawful*, and *Uncanonical*. (Not denying the *King's Right* of conferring Prebends, but the *Evil use* of it.) So that the Bishop in *Capitulo* has but one single Vote, and the liberty to propose what he thinks may tend to the good of the Church, or to complain of what he takes to be amiss, (as every other Prebendary has as free liberty to do,) and to be punished or amended by the Authority of Dean and Chapter. Nor is it said to be the *Duty*, but the (e) *Dignity* of the Dean and of all the Canons, *ut Episcopo in nullo respondeant, nisi in Capitulo*. To which 'tis added in the next words, (what his Lordship does not mention) & *judicio Tantum Capituli pareant*, where the word *Tantum* excludes the Bishops Judgment or definitive Sentence of any matter, & limits it wholly to the Body of the Great Chapter (consisting of All the Canons Non-Resident and Resident) whereof the Dean is the Head, and the Prebendary of *Pottern*, a worthy Member; but the Bishop as Bishop is neither of them. Nor was this *Signal Exemption* only in the *Foundation* of the Cathedral, made at once by the *Supreme* and the *Subordinate Founder*; but it was *Repeated*

(e) *Dignitas est Decani, & omnium Canonicorum, &c.*

and Confirmed by Hen. III. and Bishop Poor, in the Removal of the same from Old to New Sarum, in the years 1220. And the same Oaths for the due observance of it, have been ever since Sworn by all the Bishops, Deans, and Chapters without Exception. All which was alledged with effect in the Chapters Accusation of Bishop Erghum to Archbishop Sudbury (1375,) whom they charged before his Grace at once with *Perjury* and *Usurpation*, for affecting a Jurisdiction over the Canons when the Dean was Dead, and the Deanry Vacant, at a Time wherein the Bishop had a little colour for it, which might excuse his Sin a Tanto. Much more might they have done whilst the Dean was yet Living, if such an Incroachment had been attempted. Besides it was against the *Imperial Crown of this Realm*, by being against the Decanal Jurisdiction, which is (e) for ever and inseparably thereto annexed, and granted unto the Deap under the Great Seal of England.

§. II. Next it was against the *Common and Statute Law* of the Land. Against the first, because the King's *Prerogative is Law*, and the Principal part of the *Common Law*, as that from which our Statute Laws are derived; and 'tis a Principle with my Lord Coke, "The (f) *Common Law*" "disallows Acts done to the prejudice of any Subject" "of this Realm (much more of the Sovereign) by any" "Foreign Power out of the Realm, as things not Au-" "thentick. Such was the Power of Boniface the Ninth meerly Foreign, and Prohibited as such by several Statutes then in force, and ever since.

(f) 1 Ed. 6. cap. 2. §. 3. 1 Eliz. cap. 1. §. 17, 18, & 8 Eliz. cap. 1. (g) Coke 1. Inst. l. 2. cap. 11. 134.

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Against the second, because there were *ab Antiquo* (before the Petition made to the Pope by the then Bishop, Dean and Chapter for the *Papal Confirmation* of the Conspiracy aforesaid,) Acts of Parliament in force, against *Appealing to, or Petitioning the Bishop of Rome, or any other foreign Power, either for Grants or Confirmations of any Acts, or Combinations, or Associations whatsoever, within these Realms*; and therefore one *Abbot Moris* in the 46 of *Ed. 3.* incur'd the Pain of *Præmunire*, for sending to *Rome* to *(b) be confirmed* by the Pope in his Election to his Abby, which the Pope (forsooth) gave him of *his Spiritual Grace*, and *at the Request of the King of England*, as he fictitiously pretended. The Bull was considered of in Council, before all the Judges of *England*, and by them All it was resolved, that this Bull of the Pope was against the Laws of *England*; and that the Abbot, for obtaining it, *was fallen into the King's Mercy*; whereupon *All his Possessions were seiz'd into the King's Hands*. The same Penalty was deserved by them who made the *Composition* we are upon, and petitioned the Pope for his *Confirmation*. And though 'tis pretended to have been done at *Rich. 2.* his *Intercession*; yet it is *but pretended*, according to the *Usual Trick*, the Practice and Policy of the Popes, to *feign Requests from the Kings of England*, who scorned to make them; as they did often pretend to *Give*, what they could not *deny*, or durst not offer to withhold, and knew they had not either

(b) 27 *Ed. 3.* *Cit. Præm. cap. 1.* *With which Statute compare 25 Ed. 3. cap. 22. and 7 Rich. 2. cap. 12. where that King declares against his granting any such Licence as is pretended.*

a Right to confer, or a Power to hinder. Choice Examples of which are given by the Learned and Reverend Archdeacon Fullwood, in his *Subversion of the Romanists Pleas for the Pope's Supremacy in England*; and though Rich. 2. was so incomparably careless of his every thing that was his, even to his Kingdom, Crown and Dignity, which brought upon him his *Deposition*, as Historians are wont to call it. And although such an Act of *Intercession to the Pope*, as is pretended, had had an absolute *Nullity* in it self, had it been True; yet hardly any man can believe it, who shall consider the Statute made in the (i) same Kings Time against all Papal Usurpations, which to own, and to use as things of Right, is to incur a *Pramunire*. Besides that Rich. 2. had acted against other Parliaments also, as well as against his own, and against his Declaration, in case he had done, as is pretended. But that the Trick I now mentioned was often used by the Popes, we cannot prove by a better Testimony than that of the most Learned and most sincere *Padre Paul*, who speaking of the Times of *Paul the Fourth*, in giving that to *Queen Mary* which was her own long before, and inherited from her Father, King *Hen. 8.* concludes with this signal Observation: *Così spesso i Papi hanno donato quello, che non hanno potuto levare a possessori; & questi per fuggire le contentioni, parte hanno ricevuto le Cose proprie in dono, & parte hanno dissimulato di saper il dono, & la pretensione del Donatore.* Add to all this, that the said Conspiracy was expressly against *Magna Charta*, by which the Deans and Chapters Liberties, Exemptions, and Jurisdictions, were confirm-

(i) 16 R. 2. cap. 5. Hist. Concil. Trident. l. 5. pag. 101. An. 1551.

ed and secured; and that by no fewer than (k) 32 Acts of Parliament. And *Magna Charta* is not only a *Statute Law*, as old as since the 17th year of King *John*, though made more full and with more Solemnity in the 9th Year of *Hen. 3.* But moreover by the *Act* of 25 *Ed. 1.* 'twas adjdged in Parliament to be taken and held as *The Common Law.* (They are the Words of Chief Justice *Coke*, in the Preface to his Comment on *Magna Charta.*) In a word, The Application made to the Pope at that Time against the Laws of this Realm, was a strong proof of its Corruption. For 'twas the Observation of the most wise *Padre* (l) *Paolo*, that None went to Rome out of Devotion, but only out of some Design against the Canons and Customs of the Church, which being unable to get approved in their own Country, they fled to Rome, where Dispensations were vendible for every thing, and the Avarice or Ambition covered over with an Apostolical Dispensation or Confirmation. So he in his Treatise of the *Almes* of the Faithful in the Primitive Church.

§. III. Thirdly, The forefaid Composition was even knowingly and professedly against The great Fundamental Statute (commonly called in our Books *Magna Charta Osmundi*,) of the Subordinate Founder *Osmund*, and by a Consequence unavoidable against the Sovereign Founder also, whose Royal Seal alone was affixed to it. That 'twas against the said Charter and Fundamental Statute, and against the Exemption of the Dean and Canons, and all Inferior Members also belonging

(k) Of the 32 Acts are those of 50 *Ed. 3.* cap. 1. & 2. A. D. 1376. & 1 *Rich. 2.* cap. 1. & 34 *Ed. 1.* St. 4. cap. 4. & 4 H. 4. cap. 3. (l) *Paolo Sarpi*. N. 74. p. 22.

to the Kings *Free Chappel*, (which any man may deny whose Tongue is his own, but no Man living can *disprove*,) hath already been evinced, and shall be further, as Occasion shall be offered. But that 'twas *knowingly* and *professedly* against the same, is moreover to be proved from the Conclusion of the Conspiracy. For as there is a *Contradiction* to the Fundamental Statute and Charter both Legal and Episcopal, fol. 76. so in the next page of that Leaf there are these bold and unexcusable Words——*Non obstante Statuto, & Charta predicta*, The King himself in Parliament could not have spoken in a more Imperial strain. Archbishop Boniface on the contrary, A. D. 1262. had most tenderly provided for the *Liberties* of all in the Church of Sarum, according to the Tenor of (m) *Osmund's* Statute; though he was in all his time the most assuming Archbishop of Canterbury, even from that to this day. Whereas in the Conspiracy of the aforesaid Pope Boniface with the then Bishop, Dean and Chapters, there is this aggravation of the astonishing design against the King; that it hath a *special Salvo* for the Popes and his *Cardinals*, and the *Dean of Sarums* Rights, but none at all for the *Kings*: Yea, as if that were not enough to affront the King by, it takes upon it to decree the whole Revenue of the *Deanry*, *Decanatu vacante*, to the Chapter; which, (as well as the Revenues of all the void Bishopricks in England,) belong by Law to *The King alone*. Lastly, *The Goods of the Church* (as the Chapter words it) which *Osmund* gave to the Dean and Canons, he gave them even so, as he had received them of the King, with a *Libere*, prout *Ipse obtinueram*;

(m) Lib. Statut.

(meaning

(meaning his Master Will. I.) and adds a little after, in his repeated Exemption of all the Prebendaries or Canons from all Intermeddlings of any Bishop who should succeed him, *Habeant etiam Curiam suam in omnibus Prabendis suis, & Dignitatem Archidiaconalem, ita ut nulla omnino Exigentia vel in Dono, vel in Assisa, aut aliqua alia Consuetudine ab Episcopo vel aliquo alio fiat, &c.* Sed (e contra) omnes Dignitates, & omnes Libertates plenarie & pacifice habeant, quas Ego Osmundus Episcopus in iisdem Prabendis habui, aut aliquis (n) alius, cum eas in Nostro Dominio haberemus. 'Twas in contempt and relation to this Emphatical Exemption, as well as that which was instanced in before, That the Bishop, Dean and Chapter, conspired with Boniface the Ninth against the Statute they were sworn to keep inviolate, with a prodigious *Non obstante Statuto*, and *Charta pradieta*. And therefore.

§. IV. Fourthly, *It was against their own Souls.* For it follows in the same Charter, or the great Fundamental Statute, (wherewith all after Statutes must stand or fall,) that every one of the Foundation must take an Oath at his Admission, *Se Dignitates & Consuetudines Ecclesie Sarum inviolabiliter observaturum*. And if any one shall presume to violate or pervert the said Statute of the Foundation, *perpetuo Anathematizetur*, is the Form of the Curse used by the King and Bishop Osmund on the Transgressor. Nor is it meant

(n) That is, The Conqueror himself, from whom Captain Osmund had all he had in the World, and did hold by Knights Service, or any whom the said Osmund might have entrusted or employed.

of the Lesser, but Greater Cursing, which the Old English Festival and the Articles found in St. Paul's Church at Canterbury, A. D. 1562. (o) do define to be "Such a Cursing, or Vengeance-taking, that
 " it departeth a Man from the Bliss of Heaven;
 " from House, Christ, and all the Sacraments of
 " Holy Church; and betaketh him to the Devil, and
 " to the Pains of Hell without end. Such was the force of the word *Perpetuo*, when such Cursings were in use. In a due fear, and for the prevention of such a Curse upon such a Perjury, the Chapter of Sarum in their Complaint to Archbishop Sudbury against Bishop Erghum, for violating his Oath by usurping a Jurisdiction, and by presuming to visit certain Prebends whilst the Deanry lay void, did present how All the Privileges which had been settled in the Foundation, were continued and confirmed in the Removal of the Cathedral, and that by a Bull from Pope Honorius, *cum hac clausula in Literis Apostolicis inserta, [Salvis ipsius Ecclesie Sarum Privilegiis, Dignitatibus, & Consuetudinibus.]* " *Ad dictas etiam*
 " *Ordinationes, Consuetudines, Libertates & Digni-*
 " *tates fideliter tenendas & inviolabiliter observandas*
 " *Episcopi, Decani & Canonici Sarum Prabendarii,*
 " *eorum temporibus successivis, omnes & singuli, jura-*
 " *mentis Corporalibus ad Sancta Dei Evangelia,*
 " *prestitis, realiter fuerunt & sunt, astricti.* Where-
 " upon they prayed the Archbishop of the Pro-
 " vince, so to interpose his Metropolitcal Pow-
 " er as that the said Bishop of Sarum, for the
 " *salvation of his Soul, might revoke and retract*

(o) Sir T. Ridley's *View of the Civil Law*, part 3. cap. §. 2. pag. 172, 173.

“ the Visitation he had begun, and the Chapter enjoy
 “ their own without disturbance. *Placeat igitur Pa-*
 “ *ternitati Vestra taliter interponere Partes Vestras,*
 “ *ut dictus D. Episcopus Sarum omnia præmissa illi-*
 “ *cite attentata, & præcipue Visitationem sicut præ-*
 “ *mittitur Decanatu vacante de facto inchoatam,*
 “ *pro Salute anima sue revocet, & præfatum Capitu-*
 “ *lum & Prebendarii omnes & singulos commodo*
 “ *Fundationis, &c.——libere gaudere, in solidum*
 “ *exercere, quoad omnia præmissa in Pace permittat*
 “ *in futurum.* Lastly, The Fundamental Statutes
 and Customs of our Church were so confirmed
 By Hen. 8. in his Regal Visitation of it, *An. Dom.*
 1535, that the Bishops of Sarum for ever are as
 much subject to them, as any other. The Bishop
 there by Name is the first bound up; and bound
 up to the observance of no other Statutes and
 Customs, than do agree with the Word of God,
 and with the Laws of the Land, with which the
 said Papal Composition hath been proved to dis-
 agree; and as it *professedly* does oppose the Royal
 Charter, and the Fundamental Statute, on which
 our whole Endowment stands; so I set This a-
 gainst That, the Fundamental Charter and Sta-
 tute, against the Novel Composition or Combi-
 nation.

§. V. Add to this, that the Composition hath sever-
 al other Nullities in it, arising from its several
 Inconsistences with it self. 'Tis inconsistent with
 an Episcopal Jurisdiction, 1. Not to be impow-
 ered to Visit *Triennially*, and 2. To be interdicted a
 Procuration; 3. (p) Only once in Seven years; 4.

(p) *De Septennio in Septennium duntaxat.*

And

And then (q) without any Regard; 5. And in the (r) *Chapter House only*; not where he will, excepting the Archdeacons, whom 'tis said he may Visit (s) elsewhere: 6. A fault or default in a Prebendary at large to be corrected, (not by the Bishop, but) by *Dean and Chapter*, or by the *Dean alone*, as is usual without a Visitation; (fol. 66. b.) 7. (t) A Power is pretended, to inquire what is amiss among all the *Secular Inhabitants of the Close*, and to reform, or correct, if the *Dean* does not; (f. 66.) which hath an absolute Inconsistence with the *Salvo* made before for the Rights of the *Dean*, in these words, [*Visitatione & Jurisdictione (u) Decanali in omnibus, & per omnia Decano & Successoribus suis semper salvois.*] Now when it shall be made to appear, not only by immemorial *Practise*, but by *Decisions* of Authority, and by the *Confessions* of this present Bishop, (yes, and by his earnest Contentions for the *Dean* against himself,) that the *Close* is the *Dean's Peculiar*, and not the Bishops; that the *Dean* has *All* the Ecclesiastical Jurisdiction, and the Bishop *none* at all; that all Persons and Causes of Ecclesiastical cognizance within the *Close*, yea, within the Bishops own Palace, are to be *Tried* and adjudged in the *Deans Court* alone, not at all in the Bishops; Then I trow 'twill be granted to be a monstrous Absurdity and Inconsistence, for *One* Ordinary to be the Visitor of *Another*, who hath a *Co-ordinate* Jurisdiction with himself in many other places of *Wilts* and *Berks*, and a Superior to him in *One*, and a *sole* Jurisdiction in thar very *Close* wherein

(q) Fol. 67. 2. (r) Fol. 65. (s) 65. (t) (u) Fol 63.

the Bishop pretends to be the Deans Visitor; which is to take upon him a *Regal*, or *Metropolitcal* Authority, to which two alone the Dean of *Sarum* is subordinate in his *Peculiars*, as all others are who have *Episcopal* Jurisdiction within the *Province*; even abstracting from the Relation the Deans of *Sarum* ever had to the King's Free Chapel, whereof the *Privileges* remain, and were ever reserved, though the *Formality* is obscured in a Great Cathedral Church. This last Absurdity spoken of, may be made to appear by these following Degrees.

N. I. First, There never was a Time since the Foundation of the Cathedral within the Kings Castle of Old *Sarum*, or since its Removal to the Close of New *Sarum*, (which Close must be distinguished in all our Discourses from the City, which no body denies to be in the Bishops Jurisdiction, and in the Sub-Deans two Years in three,) wherein the Bishop was, or wherein the Dean of *Sarum* was not *Immediatus Loci Ordinarius*. Let them name it, and prove it, who were bold enough to say there was such a Time, as the Dean has named plainly, and also proved the Space of Time of almost 300 Years, between the Kings and *Osmond's* Charter on one side, and the Infamous Composition on the other side, by which the Bishop hath pretended some Jurisdiction over the Close, five days in seven years, though none at all before or after so great a space as seven years: Which (by the way) is another Absurdity and Inconsistence. No Instance can be given of any Will proved within the Close by any Bishop, or any Letters of Administration granted, or any matter of Instance tryed, or any Fornication punished by any Bishop since the Foundation:

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but only by the Dean of Sarum, who is confessedly in the Statute of Bishop Roger himself (though an high-flying Bishop) *Loci Ordinarius Immediatus*. See the Statute *De Testamentis Decano insinuandis*. Now that is clearly an *Immemorial Practice and Possession of the Dean* which has been a *Tempore, & per Tempus, cujus contrariis memoria hominum non existit*. Which Allegation to the Archbishop, for the Chapters *Exemption* from the Bishops Jurisdiction, Bishop Ralph Erghum could not deny, and thereupon was decreed against. 2. Next, the *Decisions of Authority* have been for the Dean, and against the Bishop, as often as Authority hath been appealed unto, which has been seldom.

1. In the Year 1301, when the then Bishop Simon de Gaunt endeavoured to invade the Decanal Jurisdiction over the Canons and other Members of the Cathedral Church of Sarum, Petrus de Sabaudia then Dean of Sarum, did by his Instrument in Writing, on the Third of October, Prohibit the Prebendaries or Canons, and all other Members of the said Church, and discharge them from submitting to the said Bishops Visitation.

N. II. No longer since than in the Year 1665, John Elliot, LL. Doctor, Chancellor then to Dr. Alexander Hyde Lord Bishop of Sarum, cited one John Wickham, Servant to Mr. Chafin, living then in the Close of Sarum, unto the Bishops Consistory for Incontinency, &c. Wickham not obeying the Summons, was by the said Chancellor *de facto* Excommunicated. Whereupon Mr. Richard Kent, then Prebendary of Sarum and Surrogate to the Reverend Dr. Richard Baily, Dean of Sarum, perceiving the Invasion committed upon

upon the Dean's peculiar Jurisdiction, by Dr. Elliot the Bishops Chancellor, in citing Wickham within the Close, Absolves the said Wickham. Whereupon the Bishop makes his complaint to the Archbishop Dr. Gilbert Sheldon. The business came to an Hearing in St. John's College Gallery in Oxford, before the said Archbishop, and Edward Earl of Clarendon, Lord Chancellour of England; (the King then residing in Oxford.) And the Issue was this; That the Bishop should not intermeddle with any Ecclesiastical Censures, things, or Persons, out of his own Palace and Family; but that the whole decision of Ecclesiastical Matters within the said Close, did, and do purely, wholly and solely belong unto the Dean.

This is a True Copy of the whole Relation of the Matter from the Reverend Dr. Richard Baily, received by me the Surrogate to the said Dr. Richard Baily, Dean of Sarum.

Ita testor Ricard. Kent, primo Jun. A.D. 1678. Sub-Dec. Sarum.

N. III. Yea, since the present Lord Bishops, and the present Dean's Time, there was a Crime committed within his Lordships own Pallace, and by his Lordships chief Domestick; which being a Crime of Ecclesiastical cognizance, was by consequence to be punished by the King's Ecclesiastical Laws. The Bishop applied himself first by Letters to the Dean and Chapter *conjunctim*, for the Punishing of the chief Party in

that Commission; proposing the *Composition* to them, whereby his Lordship was in hopes a Correction *de bene esse* might be favourably inflicted. The Dean and Chapter met on purpose in Dr. Drake's House, to Read and to consider of the said *Composition*. Which having done, They unanimously agreed in this Judgment, (of which they sent his Lordship word,) That the whole *Composition* (supposing it to be valid,) was wholly impertinent to the Matter in hand: And that none but the Dean alone, as the *Sole Ordinary of the Close*, could Summon both Parties into his Consistory Court, and put the Law in Execution. The Dean however made a delay, because the Principal Offender had committed the Fact in the *Bishop's Palace*, which he was willing to esteem a place *Exempted* from the Decanal Jurisdiction. And this he pleaded to the Lord Bishop, whom he desired to correct his own Domestick in his own Family, or in his own Court, which the Dean said, he would warrant his Lordship the doing of by Letters Dimissory, or License under the Seal of his Decanal Office. But his Lordship urged with great strength of Reason, as well as Earnestness; (1.) That such a Liberty in the Close, was more than either the Dean could give away lawfully, or the Bishop receive. (2.) That the Party cited into his Court might appeal to the Arches from the Bishop *tanquam a non Judice*, and make the very Judge of that Court a Criminal. (3.) That the Dean might Summon a Prebendary to appear in his Court by a certain day from any part of the Kingdom; but (4.) That the Bishop could not cite him into His, however nearly an Inhabitant. Whereupon the Dean of Sarum, acknowledging the Bishop too hard for him in the Contest, was forced

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forced to own his Unavoidable Authority in the Close, as inseparably annexed to the Imperial Crown of these Realms, (which is the language of (w) several Acts of Parliament,) and not without Trouble and Self denial, did satisfy the Law upon both the offending Parties.

N. IV. Since which time also, no longer since than on the 15th of September 1681. the present Dean was desired by Mr. Archdeacon Woodward, then the Bishop of Sarum's Surrogate, (Now the Chancellor of this whole Diocese,) to permit and allow the People of Broad-Chalk in Wiltshire, to ask the voluntary Benevolence of Persons living within the Close of Sarum. To whom the Dean gave his leave, or permission rather, in these words following: *As far as the Laws of this Realm permit, and being earnestly requested, as well as moved with the Resentment of so many mens Losses within the Parish of Broad-Chalk, I do allow the said Sufferers to try the Charity of the Inhabitants within my Peculiar of the Close of New Sarum, though not in any other Place under the Decanal Jurisdiction of*

Tho. Pierce, Decan. Sarum.

Now it is to be noted, that the Parish of Broad-Chalk, is under the Bishop's Jurisdiction; and that the Lord Bishop was then at home, in his Palace within the Close; and that his Leave had been sufficient without the Deans, had he had any Jurisdiction within the Close; much more had his Jurisdiction been *Archiepiscopal*, or *Regal*, and so Superior to the Deans. Lastly, That the

(w) See 25 Hen. 8. 20. & 26 Hen. 8. 1. & 1 Eliz. 1. §. 17. n. L. & §. 18. n. 1. and other Statutes recited 8 Eliz. cap. 1.

Bishops *Surrogate*, knowing well that his Lordship had none at all within the Close, (though his Lordship and the Sub-Dean have all between them in the City,) did therefore make his Application, to the Dean, and the Dean only. In like manner the Collection which was made within the Close for the rebuilding of *St. Paul's London*, the Redemption of Captives, and the like, was made and returned by the Dean only and his Officers, according to the King's Order and Direction.

N. V. If we step as far back as to the Year of our Lord 1584, we shall find the great difference between a Bishop of *Sarum*, who was first Dean of *Sarum*, and a Bishop who never was Dean of the same Church. For Dr. *John Pierce*, whilst Dean of *Sarum*, did in conjunction with his Chapter, and by Command of Queen *Elizabeth*, (to whom he was *Almoner* many years,) upon the 17th of October, 1573. (x) begin the good work of abolishing Superstitious and Popish Statutes, without the consent or the assistance of the then Bishop *Edmund Ghueft*. (Though he so swept the Church, as to leave some Dust behind the Door.) But being afterwards Bishop of *Sarum*, (as after that, Archbishop of *York*;) he got a Commission from the Archbishop of the Province to visit the Church upon occasion of the Case of Dr. *Zouch*, and said, he was *sclus Jurisdictione Metropolitana*; knowing well, and confessing, that, as Bishop of *Sarum*, he had no right to Visit the Choral Vicars, much less the Chapter, much less the Dean; for if he had, he would not have needed any Com-

(x) Testante Blacker Notar. Publ. f. 89.

mission from the Archbishop of the whole Province.

N. VI. The said Exemption of *All the Canons* of the greater and lesser Chapter, who make a *Superiour* Corporation whereof their Dean is the Head, may be yet farther proved by the Exemption of *All the Vicars*, who are an *Inferiour* Corporation, from the Bishop of *Sarum's* Power and Jurisdiction. For it appears by the Vicars Charter, which they enjoy from the Crown of *England*, (as the Dean and Chapter do Theirs,) that they are only subjected to the correction of Dean and Chapter, not at all to the Bishops, who can neither *put in, nor punish*; much less, *put out* a Vicar, or a Lay Clerk, however criminal. And accordingly the Vicars, (as well as the Lay Clerks) take an Oath at their Admission of paying Obedience unto the Dean, and to the Dean only whilst he is present, and in the Dean's Absence to the Deans *Locum-tenens*, authorized under the Seal of the Decanal Office: But none at all to the Bishop, whether Present, or Absent; which was eminently acknowledged by this present Bishop in his own Palace, when in the presence of the Dean and Chapter, and all the Vicars, his Lordship protested three several times to Mr. *Hardwick*, the Vicars Procurator, and Prolocutor, and to his Brethren then present, *That if it were in his Power, he would expel them every one*, for their then Recalcitration and Opposition, both to the Bishop and to the Chapter, when good Lawyers told the Vicars, they had the Law on their Side. The Vicars were not a little pleased at his Lordship's *Brutum Fulmen*, and confession of his *No-Power* over the Vicars within the Close, three times repeated. Nor could any but the Dean bring

those Vicars to a Submission and full compliance, which he soon after did with the best effect.

N. VII. Even since my coming to keep my Residence at Sarum, the 20th. of this instant June, I find two *Notorious and Publick Confessions in effect*, of the Lord Bishop of Sarum his having no Power to Visit *within the Close*, whether the Dean will or no, or without the Dean's *Leave, Concurrence, and Consent*, under the Seal of his Decanal Office, as well as under his own Hand; which being *sought, but refused* (very honestly and prudently) by the Dean's Surrogate *in his absence, and without his knowledge*; the Dean's *Locum-tenens*, for the Chapter, (as the Sub Dean Mr. Kent is the Dean's Surrogate for his Court and his peculiar Jurisdiction, wherewith the Chapter hath nothing to do, nor any mortal Besides the King, and the Arch-Bishop of the Great Province,) did as absurdly, as unfaithfully, clap the Common Seal of the Dean and Chapter, (of the Dean chiefly as the Head, and of the Chapter as his Members,) by *usurping my Name in it*, and by counterfeiting my *Will, against my Will, my Interest, my Jurisdiction, without asking my Consent or Permission*, without so much as saying, *By your Leave Sir*, yea studiously and in haste without my *knowledge*, even when He and the Rest knew I was but few Miles from them, and even then *coming* (tho' not yet come) to my House at Sarum. Being come, I soon found *Two Citations* in the Choir, made by a Fiction of my Name, and of my Name only, beginning Thus, *Thomas Pierce Sanctæ Theol. Professor, Ecclesiæ Cathedralis Sarum Decanus, & ejusdem Ecclesiæ Capitulum, Universis & Singulis, &c.* Finding This to be done 1. Without my knowledge; and 2. With my very great Abhorrence;

3. Against

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3. Against my Judgment; 4. Against my Right of Jurisdiction; 5. Against the King, of whom I hold my Jurisdiction under the Great Seal of England, (and unto whose Imperial Crown my Jurisdiction is annexed by 32 Acts of Parliament; 6. Against my self in mine own name, and Poetically brought in upon the stage, Citing my self, and the Bishop, as the Prebendary of Blewbery, but not as Prebendary of Pottern, (which the Bishop is also) Comically personated whether I will or no, like a Puppet(y) moving by Wires; 7. Against Express Statute to the contrary; 8. Against the Oaths of the Members of the Chapter, who had an Hand in the usurpation (which I am sure but few had;) 9. Against the Trust reposed in my Deputy; and 10. Against the very License or Constitution, whereby I had enabled him in my Absence to call Chapters for the taking care of God's worship, the keeping of Statutes and Laudable Customs of the Church, as far as they agree with the Word of God, and with the Law of the Land, and for the Correction of the Canons and Members, but so limited, as I have said, not for the using the Common Seal at all, much less at his Pleasure, without my knowledge, and consent, and against my self; I say finding This, and a world of Absurdities (too many, and too great to be recounted in this Pinch of Time;) I inferred their Conviction of my sole Right, as Dean, to cite the 52 Prebendaries and all other members who had sworn obedience to me, from their conceiving themselves forced to run so great a Risque, as that of (z) *Crimen Falsarii*,

(y) St. fol. 44. b. (z) D. D. Longland. Harwards Acts. pag. 61. 125.

Rather

Rather than set up such a Citation *without my Name*, or in Any man's Name but *Mine*; and for their false using the *Common Seal of Dean and Chapter*, for want of the *Decanal Peculiar Seal*, which Alone had been Authentick. Therefore under my Seal of Office belonging to me, and me only, as an Ordinary, and Judge, of the King's Ecclesiastical Court within my Peculiar the Close of *Sarum*, and elsewhere, I made my (a) Protestation against That usurpation of my name, declaring it unlawful, Null, and Void, as shall be set forth at Large in the Second part of my Defence, if Occasion shall serve, or Need require.

§. 6. Having shew'd the Inconsistencies of the Conspiracy with it self, and the monstrous Absurdity of a Bishop's taking upon him a *Regal Power*, or at least an *Archiepiscopal*, whereby to visit the Dean of *Sarum* within that Close which is the *Peculiar* of the Dean, not of the Bishop, and whereof not the Bishop, but the Dean is the *Sole Immediate Ordinary*, and wherein the Dean has the whole Ecclesiastical Jurisdiction, the Bishop *none*, and where the Dean's Jurisdiction which was derived from the Crown is united thereunto by Acts of Parliament, which the said *Composition* does grossly violate: I come to shew in the last place, that 'tis against the *Well-being*, if not against the *very Being* of the whole College within the Close and the Church of *Sarum*, by reason of its most *scandalous* and most *mischievous* Effects.

N. I. First, The Statutes which have been made by Deans and Chapters without the Bishops, and others made by several Bishops with the Permis-

(a) Dated Jun. 20. 1683.

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son or Consent of Deans and Chapters, being no way obliging beyond the Time of the Contrivers, (nor even *Then* but by our Monarchs having no notice of them,) succeeding *Sets of Legislators*, as good as Those who went before them, and as destitute of Authority to take upon them a *Legislation*, made other Statutes at their Pleasure, as inconsistent with the former as Light with *Darkness*. Insomuch that they who *swore* to keep the Statutes, as they are now, (without any distinction of Good or Evil, Valid or Invalid, Loyal or Disloyal, Protestant or Popish, made by Sovereigns or by Subjects without Commission, Obsolete or in use,) do take an Oath they will be perjured, so far forth as they are not saved by a *Quatenus conveniunt cum verbo Dei & cum Statutis hujus Regni*; which is a necessary help, but not sufficient, because there is not added to it another *Quatenus* or *Quousque conveniunt Statuta inter se, & sibi invicem non repugnant*. For standing All as they do, partly lawful but laid aside, partly unlawful but yet observed and in use, and flatly repugnant to one another, (as shall be demonstrated by and by) it plainly follow's that for a man of the Church of *Sarum* to keep one Statute, is *ipso facto* to break and violate another.

N. II. Before I come to prove This, by descending to some Particulars, I think it useful to premise this General Observation, to wit, that the Statutes which are Authentick, both by Law, and in themselves, as having been made by our Founders, the King and *Osmund*, and by our Later Monarchs of England, *Hen. 8. Ed. 6. and Q. Eliz.* which alone are obliging both to the Bishop, Dean and Chapter, are of All other Statutes the most neglected and out of Use, (to say no more

at

at this time) whilst the Statutes of several Popes, and of several Popish Bishops and Deans and Chapters of *Sarum*, however selfish and presumptuous, against the Law of the Land, and the Canons of the Church, and very oppressive to Posterity, and therefore fit to have perished with Those that made them, have been hitherto observed (to the hazarding of Souls) with too much strictness.

N. III. Now to demonstrate the Contradictions, and other Mischievous effects, which have been principally caused by the Infamous Composition of the said *Boniface* the Ninth, with the then Bishop, Dean and Chapter (Birds of a Feather every one at that Time, during the loose and weak Reign of the most careless *Rich. 2.* of whom Historians give This Character, That of All Counsellors and Councils he did constantly take the Worst,) I cannot better begin than with the Words of Bishop *Henchman*, once the *Chantor*, and a *Residentiary*, and after Bishop of *Sarum*, and at last Bishop of *London*; when being consulted by Dean *Brideoak* about the compelling of certain Prebendaries at large to confirm their Leases by the Common Seal of Dean and Chapter, and also to pay the Fifth part of their Prebends for their Non-residence Thirteen Weeks in the Year, according to *Osmund's* Constitution, and the Statute of Bishop *Jewel* with the concurrence and combination of the then Dean and Chapter, sent his (b) Answer in these Words following. " You must also understand, that the great Vicissitudes and Changes which Those (c) Princes ap-

(b) From *Lopdon House*, May 7. 1668. (c) H. 8. Ed. 6. and Q. Eliz. Of whose Visitations the Bishop had written a little before.

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“plied themselves unto, did require Rules and
 “Statutes, fitted to the disturbed Condition of Church
 “Affairs Then. And you may observe in your
 “Books, that Continual Controversies did arise,
 “partly because they did injoyne Things Contrary
 “to each other, and partly because they were
 “adapted to Those Times only, and were not practi-
 “cable in after times. I will give an Instance.
 “Do you think that now a Prebendary not admis-
 “ted into Residence may be mulcted at Quinta
 “parte Præbendæ, because he doth not Reside in the
 “Close of Salisbury Thirteen Weeks in every Year?
 “Yet this is the Statute of Bishop Jewel. *Roga-
 “tu Fratrum nostrorum cum consensu Capituli* (the
 “Dean was absent) *statuimus veterem Antecessoris
 “nostri Osmundi Constitutionem, quam de ea retulit,
 “in integrum esse restituendam; hoc est Canonicos
 “huius (d) Ecclesiæ nostræ Omnes & Singulos, nisi
 “juxta formam Veterum Statutorum, adfuerint & re-
 “sident, Quinta parte Præbendæ suæ multan-
 “dos esse; Pecuniam autem omnem ita collectam
 “ad Fabricam Ecclesiæ nostræ Cathedralis conferri
 “volumus.* What think you? Can a Prebendary
 “not Residentiary be compelled now so to Reside?
 “Indeed he that lives upon his own Land, or
 “Farm, and not in his Parsonage with Cure,
 “nor where his Residence is by Law allowed,
 “is a great Offender. But if an Archdeacon
 “or Prebendary take upon him to Reside in
 “Sarum (being no Residentiary) he is liable to a
 “Sore Mulct upon an Information in the Exche-
 “quer. Will you admit every one into Resi-
 “dence that shall offer himself, and protest de Re-
 “sidendo? You will soon be weary of that. Or

(d) Subaudi Residentiary.

“ will

" will you tax a man at *Quinta parte Prebende*, because he doth not Reside, and yet you will not admit him to Reside? Thus far Bishop Henchman exposed those Statutes to ridicule, by which All the Canons (in number 52) are obliged to Residence, yet not allowed to Reside; Have a Right to be Residents, yet no permission to enjoy it 'Tis their Duty and their Crime, to Reside in the Close and the Cathedral Thirteen weeks every Year. They must, and yet they may not perform the Will of the Founder, confessed by Bishop Jewel to be expressly the Subordinate Founder's Will, and by consequence the Will of the Sovereign Founders, Will. 1. and Will. 2. whose Seals were set to Osmund's Charter. Men are punishable for That, for which they ought to be rewarded. Not permitted to keep a Residence, to which by Statute they are compelled, and compelled to pay money for Not doing That which they must not do. The work is incumbent on 52 Canons or Prebendaries; but Six of their Number ingross the Wages unto themselves. This Absurdity is so great, that hardly any can be greater, unless it be That which follows. For

N. IV. In flat contradiction to the Fundamental Statute, and Oath of Residence, and to the late repeated Statute of Bishop Jewel with the then Chapter, the present Bishop and the then Chapter made a New Statute (Octob. 3. 1672, Sethi Anno sexto) to this effect, That if they who have taken the Oath of continual Residence, keep not so much as Three Months Residence, they shall pay Five Pounds for each Months Non-Residence, or 15 l. for the Non-Residence of the Year: so that for 15 l. per annum they may be Residents good enough without Residing, and save 100 l. per

annum

annum (which any mans Residence will cost him,) by paying only Fifteen Pounds. So as the Residentiaries are tempted, (not to keep, but) to violate their Oath of Residence, (if such a Titulary Statute can have any force in it,) by Compounding or Commuting for breach of Oath, the Price of which Sin is but Fifteen Pounds. I do not know if Men are Taxed for the Sins by them committed at so favourable a Rate in the Court of Rome. Now considering, that the Residents were strunk and reduced long before, from 52 or 53, (for the Prebendary of *Pottern* was (e) bound to Residence at first,) to the Dean and 12, and after that to the Dean and 6, and now at last by this last Statute (so called) to None at all, if each of the Residents will redeem himself from that Duty, or buy out his Residence for the said Sum of 15*l*. (as some have done, and all may do,) here seems to be a way made to the very Dissolution of the whole College, if not in Time of the whole Cathedral Church of *Salut*, notwithstanding his Majesties Ecclesiastical Laws, which do oblige unto the Residence of 90 Days, or 3 Months. And all Local Statutes have a Nullity in the making, which are repugnant to the (f) Prerogative of the King, to the Law of the Land, or the Word of God.

N. V. Another Statute has been made since his Majesties Restauration, enjoying Prebendaries to bring their Leases to be Confirmed by the Common Seal of the Dean and Chapter, to which they cannot be compelled, unless by the King,

(e) Per Stat. Decani *Richardi* & Capituli, à *Rogero de Mortimel* Episcopo confirmati. 1214. (f) Modò Verbo Dei, aut Prærogativa Regie non repugnant, Can. 42.

or an Act of Parliament. Of which the afore-
 said Bishop Henchman in his Letter to the said
 Dean, did write these words——[And I must
 add, That since Prebendaries and their Tenants have
 understood, that Leases Demised by Sole Corporations
 (according to the Statutes of the Realm) receive no
 strength by Capitular Confirmation, you shall do well
 to perswade and invite the Members of your Church
 to observe the good Rules lately made concerning Leases;
 but be not hasty to compel by Censures or Penalties,
 &c.——A little after, touching the Statute en-
 joyning Prebendal Contributions, by way of
 Tax towards the Repairing of the Church, the
 Reverend Bishop adds thus,——Take the best and
 surest course you can to have the Help of the Prebenda-
 ries; but take heed you adventure not to compel them,
 lest you meet with Consequences which may to a good
 degree frustrate a Work of so high Importance.]

N. VI. All the Oaths which have been Admini-
 stred, much more those which have been imposed,
 by Bishop, Dean and Chapter upon Prebendaries
 or Vicars, in any Matter not belonging to their
 Spiritual Jurisdictions, or not in a way of Ad-
 ministring Justice, have been against Law, and
 the King's Prerogative. The power to give and
 impose Oaths being so peculiar to the Prerog-
 ative Royal, that 'tis punishable to do it, without,
 or beyond the bounds of the King's Commission,
 by way of Indictment or Information, as an high
 Misdemeanor: Nor can any Custom legitimate
 such an invented Oath, unless it had a Lawful and
 just beginning. The House of Commons are
 so sensible of the want of this Power, not only
 to impose, but administer Oaths to Witnesses,
 (who, being voluntary, are as ready to Swear, as
 to appear,) that they often accept of Evidence
 upon

upon bare Averments. Nor can the Voluntary *Submission* of the Prebendaries or Vicars create unlawful Power in the Bishop, Dean and Chapter conjoyned, which otherwise by Law they have not, either to *impose* or to *administer* an Oath, nor excuse them in so doing. For however such Oaths so administred and taken, not to lett a Lease upon such or such Terms as the Law allows, (as for Example for Three Lives without License,) do bind the Takers of them in *Conscience*, yet in *Law* they are illegal, null, and void. And so 'twas declared by the late Lord Chancellor upon occasion of a Suit in that Court depending.

N. VII. By a Statute or a Decree of the Bishop, Dean and Chapter of *Sarum*, made in *October* 1671. no Lease is to be Lett by any Prebendary (however he is singly a Corporation,) *without three Conditions*, (by Law allowed, but prohibited by them,) and *all Three under the pain of Excommunication*; which yet ('tis well known) cannot lawfully be inflicted for any matter or crime which is not made to be *so punishable* by some Statute of the Land: Nor can any thing less than the King or Parliament *de novo* create, or make a thing criminal. And though the breach of such Conditions in the letting of a Lease (which Conditions are wholsom) be supposed to be a Crime in such as have consented to them, yet the *Matter being Temporal* it is not punishable in Law by an *Excommunication*. Yet this is another of the fore Mischiefs, whereof the aforesaid *Composition* hath been the Occasion of the Cause.

N. VIII. But there are other effects of it, where-
by *Simony* seems plainly not only to be *allowed*,
but even *established* by a *Law*, (such as a Bishop
and

and the Chapter can make *de facto* by the afore-
 said *Composition*, which owes its chief force to Pope
Boniface the Ninth;) whilst men are made to pay
 dearly for their Places of Preferment, which by the
 King are freely granted. For no sooner have
 the Residents in the Church of *Salum* taken
 their Oaths, That they neither have given, nor
 will give any Sum or Sums for those Places unto
 which they are admitted; but presently, by the
 (g) *Statute* of Pope *Eugenius the Fourth*, even af-
 ter he was deposed by the Council of *Basil* (when
 for Money he would do any thing,) there is
 (besides all other payments by way of customary
 Fees) a great Fine for Entrance, *Finis pro Introitu*,
 to be paid in ready Money, or well secured by
 Obligation. And though at first no more was
 paid than *Forty shillings* to the *Fabrick*, (*A. D.*
1319.) yet by the *Statute* of *Dean Sydenham*,
 and his then Chapter, (*1428.*) Authorized at
Florence by the said Titular Pope, (*1442.*) each
 Resident with Dignity is to pay for his Entrance
105 l. and each without Dignity is to pay for the
 same *71 l. 13s. 4d.* (besides a greater Sum required
 by a much younger Statute, of which hereafter.)
 This Statute is bad enough; but the Custom is
 worse: For besides that the Fines for Entrance
 are diverted from the *Fabrick*, and divided among
 the Residents of the Chapter; the Custom hath
 violated the Statute, in exacting no more from
 men with Dignity, than without it; so that the
 latter pay too much (though less than the Statute
 does require,) and the former too little, because
 much less than is due by Statute, which yet they

(g) *De Finibus Canonicorum ad Residentiam Receptorum. St.*
Tol. 58, 59.

pretend (and that with Contention) to be in force. Only the Dean of all four Dignities must be excepted, who pay by Custom to the height of what the Statute does enjoin, and by Custom much more. Nor is this all: For Tyrant Custom which keeps up that Statute, does beat it down at the same time in five remarkable degrees, for which no Creature was ever yet able to give a Reason. Yet these are Customs and Statutes, which they who take to be Obliging do Swear to keep. But as if this were not enough, for a Learned poor man to be beggared by in his Advancement, (as how many the most deserving have the least Portion of Mony, and none to spare, and often dye without Re-imbursment?) there was another Statute made by a Bishop, Dean and Chapter, as well without the King's as the Pope's concurrence, and without the concurrence of Common Sense: For by force of that Statute (another effect of the Composition) every Resident who is living, must fast a Year from all Commons; and every Resident when he is dead, must eat a Years Commons in his Grave. At least in Aristotle's sense, τὸ διὰ τῆς φιλονεικίας δι' ἡμῶν πρὸς ἑαυτὸν for what he does by his Executor, he interpretatively does; and accordingly 'tis said (with as much Pithiness, as Impropriety,) to be the Dead Resident his *Annus post Mortem*; that is, his *Unius anni proficua undecunque Provenientia*. 'Twas not the Christian Self-denial of those Usurping Legislators, who first invented this Law in their own behalf. A Law resented very deeply by some Publick-spirited Bishops of other Churches, who have expressed their Resentments to the now Dean of Sarum, with a great deal of holy

Indignation; and heartily wished for a Remedy of this and other Impositions.

N. IX. But hardly can a Remedy be brought about, but by the long and mighty Arm of Sacred Majesty, which in a Royal Visitation can abolish Old Statutes, and make us New Ones; Statutes suitable to our Religion, by Law established. Statutes not repugnant to the King's Honour and Prerogative. Statutes agreeable with themselves, and to be sworn to the safety of all mens Consciences and Souls. Lastly, Statutes not expiring with the Breath of them that make them, like those Royal Statutes which were made heretofore for the Church of Sarum: For those of Edw. 6. and Q. Elizab. were never yet so much as entered into the Statute Book; insomuch that the former and present Dean could never get a sight of them. And those of King Hen. 8. by one of his Masters of Requests, Sir John Tregonwell, (Commissioned under the Great Seal of England,) were only enter'd like an Old Almanack, and stand as a Monument of Contempt, which for many years past have been put upon them; no more regarded than the Great Charter both of the Sovereign and Subordinate Founders. Notwithstanding our Monarchs are declared by Acts of Parliament to have all such (b) Jurisdictions, Privileges, Superiorities, and Preeminences Spiritual and Ecclesiastical, as by any Spiritual or Ecclesiastical Power or Authority hath heretofore been, &c. And have full Power by Law to Commission whom they please, and for so long time as they please, to Visit

(b) This is a short account of the Statute at large 1 Eliz. cap. 1. §. 17, & 18. compared with 25 Hen. 8. cap. 19. & 26 Hen. 8. cap. 1.

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Reform, Redress, Order, Correct, and Amend whatsoever is amiss in any Ecclesiastical State or Persons, and over All to exercise all manner of Jurisdictions, Privileges, and Preeminences, which by any manner of Spiritual or Ecclesiastical Power, Authority or Jurisdiction, can or may lawfully be Reformed, Redressed, Corrected, Restrained, or Amended. Which Right and Power being united and annexed to the Imperial Crown of this Realm, and that for ever, may be extended unto the Visiting even the Visitors themselves, (and that with an endless Visitation, and by any mean Subject commission'd under the Great Seal of England,) especially such as take upon them to Visit the Ordinaries themselves, and that within the Jurisdictions which are exempt and peculiar to them, which none can Visit by Law in a Protestant Kingdom, who is not a King, or a Metropolitan.

N. X. Now because the Dean of *Sarum's* Ecclesiastical Court and Jurisdiction over the Close of New *Sarum* and the Liberties thereof, and elsewhere in four Counties, is for ever united and annexed to the Imperial Crown of this Realm, even as firmly and as fully, as the Courts and Jurisdictions of any Bishops. (those of *Sarum*, *Exeter*, and *Bristol* in particular;) it concerns the Bishop of *Sarum*, as much as all he hath in the World is worth, not to usurp the King's Authority, nor to invade the Metropolitan's Right, by invading the Dean's; nor to attempt a New Dominion (from Pope *Boniface the Ninth*) without a new Act of *Parliament*, which none were ever yet able (in almost 600 years) to prevail with any King, or any Parliament to endure.

N. XI. upon the whole matter, All the Premises being consider'd, there can be nothing

more desirable, if 'tis not absolutely necessary, than that His MAJESTY now in being, will be graciously pleased with the Assistance and Advice of the Archbishop of the Province, (if His Majesty thinks fit) to make and Authenticate such a Body of Statutes for His Majesties Free Chappel and Cathedral Church of *Sarum*, as King *CHARLES* the First, of Glorious Memory, did make and constitute for the Cathedral Church of *Canterbury*, with the Assistance and Advice of Archbishop *Laud*. The Church of *Sarum* having as much, if not a much greater need. For,

The Statutes there at present are partly (i) Popish; partly Injurious to (k) the King's Prerogative and Supremacy; partly inconsistent with the (l) Laws of the Land, and common Honesty; partly Repugnant to one (m) another, and so a snare to their Souls who are Sworn to keep them; partly impertinent and impracticable, as the state of the Church now stands; partly impossible to be observed, without a very great detriment to the Service of God, and the credit of the Choir, or else without a most grievous and most scandalous Violation of the Kings Ecclesiastical Laws, to wit, the Canons of the Church. Besides that such as they, they are Tumultuary, and Immethodical, according to the different Times wherein, the different Occasions whereupon, and the different Authorities whereby they were made. (n) Some are antiquated and grown out of use,

(i) Stat. fol. 62, 63. bought at Rome of P. Boniface the IXth, 1392. and Stat. fol. 59, 60. bought of a Pope and no Pope, Eugenius the IVth, 1442. (k) See §. 1. (l) §. 2. (m) §. 6, n. 3. (n) E. g. those of Hen. 8. Stat. fol. 72, 73, 74. which compare with fol. 12 & 13. and with that made lately, An. Dom. 1672.

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by the Deans and Chapters ceasing to live together, as in a College, to eat and drink together upon the Common Revenue, in one common Refectory, or Hall, (as in *Oxford* and *Cambridge* those of Colleges do still,) and by converting Meat and Drink into Mony, whereof all have their Proportions, and wherewith they keep their Families apart. The like Change is made in the Corporations of Vicars Choral. All occasioned (as I suppose) by Marriage permitted to the Clergy. None of our Statutes can be obliging to any beyond the Contriver's Time, unless as made or confirmed by the Law of the Land, or the Kings of *England*. But our Royal Statutes, which alone are Authentick, are most despised, as hath been shew'd.

N. XII. Without a Body of Authentick and Reasonable Statutes, such as may be agreeable to the Word of God, the King's Right of Prerogative, the Law of the Land, the Church of *England* as it is by Law Established, and our present Metropolitans Provincial Letter, *Aug. 23. 1678*, (the Vindication of which hath cost the present Dean great Pains and Trouble, to say no more,) it will be hard, if not impossible to break the Old Popish Custom of thrusting the most unqualified and most scandalous Singing-men, (not so much into Holy, as) unholy Orders, because unlawfully conferred, and sacrilegiously received. The mischievous consequences of which are too many and too great, within these last Twenty years, to be expressed without a Volume. Whereas our Two Universities can furnish us with men of very good Learning and Degrees, who have much better Voices and greater Skill in Musick, than our Illiterate and Ungraduated

Songsters. And it is but too evident, how sadly the Church is overstocked with men of Learning and Degrees: the Universities sending out yearly many more of such Men, than the Church hath Employments, (I do not say Preferments) to entertain.

N. XIII. We need say no worse of the *Composition*, made on purpose to overthrow the Fundamental Charter and Statute, than what was said by *Paolo Sarpi* of the *Concordat*, purposely made by *Leo the Tenth* to overthrow the *Pragmatic Sanction*. If the Bishop of *Sarum* had no Jurisdiction within the Close, without, or before that *Composition*, why was it not *Invented* almost 300 years sooner? And if he had it from the *Foundation*, or at any time after, before and without that *Composition*, to what purpose was the *Invention*? and why was it ever made at all? and why with a *Salvo* to the *Dean's Right*, whereof it is a *Violation*? And why with no *Salvo* to the *King's Right*, to which it is an *Opposition*? and why with a *Non obstante Statuto & Charta Predicta*? These were evident *Confessions*, that what it sought to *legitimate*, was *illegitimate* till then, and utterly *unlawful* for almost 300 Years. Lastly, Why was it called a *Composition*, or a *Compromise*, a *Concord* made between *Parties Litigant*? A *Superior* having a *clear Right* of Jurisdiction, treats his *Inferiors* as a *Judge*, by *executing Law*; not as a *Party*, *Compounding* for a *Law*, and a *Jurisdiction*, which before he had not, The very word *Composition* confesses *Novelty*, and *Guilt*, and *Usurpation*; from which, according to his Oath, his bounden Duty, and Allegiance, appellat *Casarem Decanus*; in imitation of *St. Paul*, and a Case like *his*, the *Dean* appealeth unto *Cesar*; and immediately after *Cesar*, to the *Archbishop*

bishop of the Province, whose Metropolitcal Prerogative and Jurisdiction, as well as that of the (o) King himself, the Bishop of *Sarum* (whilst I am writing) is Now presuming to *Usurp*; which I can prove he does *milfully*, and *against* his own *Lights*; because he *knows* he hath *earnestly*, and to my Face, *disclaimed* all Pretences of Jurisdiction in the *Clofe*, and cast it wholly upon *Me*, as on the (p) *Ordinary* of it, (and as having within it solely the Ecclesiastical Jurisdiction,) when he *refused* *perseveringly* to punish a Fornication committed in his own *Palace*, the Correction of which I sought to cast upon his Lordship. His Lordship *knows* the *Determination* of my Lord Chancellor *Hyde* Earl of *Clarendon*, and of Archbishop *Sheldon*, for Dean *Baily*, *against* the then Lord Bishop of *Sarum*. He *knows* that none but the *Deans Court* could ever Try or Condemn any One Person within the *Clofe*, in any one Case or Cause of Ecclesiastical cognizance. He *knows*, (q) an Oath of Obedience to the Dean is ever Sworn, and to be Sworn, by every *Prebendary* or *Canon* at his *Admission*; and this according to the Statute, (not only of the King and Bishop *Osmund*, but) even of Bishop (r) *Roger* Himself. But no such Oath unto the Bishop (throughout the whole Statute-Book) is to be taken by any Member of our Cathedral. His Lordship *knows*, that All are liable to the *Corrections* (s) of the Dean within the Church, but not One unto the Bishop. *Decanus omnibus Canonicis & Vicaries præ-*

(o) *Nullus alius, præter Regem, potest habenti Jurisdictionem Episcopalem, demandare Inquisitionem.* A Maxim somewhere in my Lord Coke. (p) Stat. fol. 21, & fol. 86. Rog. St. de Test. Dec. insinuandis. (q) St. de Admissione & Residentia Canonicorum. cap. 2. (r) Stat. Com. fol. 9. (s) Vet. Charta *Osmundi* ubi supra.

4 *A Vindication of the Chap. III. §. 6.*

est, quoad Regimen Animarum, & Correctionem Morum. His Lordship knows, that at Morning and Evening Prayers, after the Tolling of the Bell, no (r) Person is to be staid for, (*ne Episcopus quidem Ipse*) except the Dean. His Lordship knows, in defect of Residence, the Canons were to be Multed or Fined (u) *secundum Consilium Decani*, (not *Episcopi*;) and that by a Statute which was confirmed (tis an Argument *ad hominem*) *Autoritate Apostolica*. His Lordship knows, that the Dean (as (w) *Petrus de Subaudia*) made Statutes of himself, approved of, and ratified, by the Bishop and the Chapter *ex Parte Post*. But never any Bishop presumed to make any Statute, without the Concurrence of Dean and Chapter. His Lordship knows, the Dean's Power (x) to give leave of Absence, or to deny it, without the least notice ever taken of the Bishop. His Lordship knows, or should know, that the Dean was acknowledged by Bishop (y) Jewel, to be *Totius Collegii Pater, & Sanctæ Societatis vinculum*; that the Dean, (not the Bishop) has Power by Statute, to admit the Clergy of the Church of the higher and lower Degree, to Possession and Commons, (z) *suo Jure*, in one place, and (in another) *sua sola Autoritate*; and to receive (a) an ounce of Gold from every Canon whom he Installs, though now 'tis dwindled into a Mark; and to challenge for Himself and his Retinue (b), *de Jure & Dignitate sua*, from every Preben-

(r) Fol. 12. b. (u) Fol. 13. 2. (w) Fol. 8. fol. 12. fol. 21. & fol. 25. b. & alibi passim. (x) Vet. Regist. fol. 3. & Antiqu. St. 89. & Francisc. D. Bridges, p. 175. (y) Stat. de Menis Clauſi reparand. p. 60. (z) Reg. Bridg. 172. (a) Ibid. pag. 175. & in Cod. Originali fol. 3. Stat. Rog. fol. 9. b. 1319. (b) St. Com. fol. 47. a. Lib. Statut. Nigr. pag. 93.

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dary or Canon, by whose Corps he shall pass in any Journey, one days plentiful Entertainment, with a *laute percipiet, & ad Libitum*. Briefly, Our Statutes give more respect unto the Dean, than the Dean can desire, or look for; and such as I am loath to mention. But it (c) appears by the Old Statute-Book, lent by Dean *Brideoak* to the present (d) Lord Bishop, July 10. 1672, by whom it is not yet restored, as D. *Brideoak* left it under his hand, when he went hence to the See of *Chichester*. That, and Bishop *Poor's Register* are to this day concealed from me.

I will Conclude with this one signal Observation, That of *All* the Monarchs of *England*, who have deprived the Bishops of *Sarum* of many Jewels in their Mitres; not any One of them ever took any thing from the Deans, because Originally the Deans of their Royal Chapel, and *Virtualiter* ever since.

(c) Pag. 89 (d) Bishop *Ward*.



AN



AN
APPENDIX
TO THE
PREMISES.



Hewing the Dean of *Sarum's* Innocence (if not his Merit) in his Services for the *King*, by the Lords Commissioners special Order; and in his Obedience to their Lordships express Command; and also in his perfect Ignorance of Mr. *Teares* his Address to the said great Lords with his Four Heads of Information, until the Lord Bishop and the Chapter of *Sarum* gave the Dean his First knowledge and notice of it. So that the Controversie, ensuing it, might possibly have been Raised by the said Bishop and his Adherents, Before it was so much as possible to have been Raised by the Dean, without his knowing any thing of it, till so informed. But seeing All men are subject to be Mistaken and Abused

Abused by men of Malice ; it is the honour and the duty of All the Dean of *Sarum's* Friends (in the number of whom I profess my self) to *convert*, or to *shame* those Fanatical Enemies to the Government, who do *pretend* to suspect him, though indeed they do *not*, and *cannot* suspect him in *Reality*, of having dealt *underhand* in the Design of Mr. *Yeats*, or of having acted otherwise towards any the least *Occasion* of any Controversie or Difference with any Creature *Antecedently* to the Command of the Lords Commissioners, the Evidence of the contrary is so *manifest* and *convincing*. But yet they hitherto Resolve to *pretend* suspicion, (when they have *None*) whereby to *justify*, or *excuse*, their Diabolical Defamation of an innocent Man. (If yet it is a *Defamation* or a *Crime*, to prompt a Pious and Learned Person to serve his *Sovereign* as he is able.) The *Real* cause of their Malignity, being too *Criminal* to be owned ; to wit, the Dean of *Sarum's* *Loyalty*, and *Love of Truth*, and *Compliance* with the *Commands* of the most Noble Lords Commissioners, who are impowered by the King to command us All. This alone is the *True Ground* of some mens *Pretending* to a Suspicion, whereby to revenge themselves on the said Dean, for having dared to be *Dutiful* to his *Superiours*. These *Artificers* and (e) *Inventors* of *Evil Things* having not at all either the *Grace*, or even *Humanity* to consider, that They *Themselves* must have *obeyed*, (as ill-affected as they are to Any Commissioned by the King,) had they been so commanded, as the Dean of *Sarum* was. But I will no longer detain the Reader (in this Preface to an Appen-

(e) *Evangelist's* *name*, Rom. 1. Cap. 30. Comm :

dix) from Mr. *Yeats*'s his own Letters, sent to several Persons of Honour, and to some others of lesser Quality, strongly asserting unto Himself the whole Design of the Four Heads, which he address'd to the Lords Commissioners; and confuting those Malignants, who out of Envy to his Performance, would have him taken (to his Disparagement) for Another man's Tool. Nothing is added to the said Letters, besides a few *Deductions Thence*, and some *Reflections thereupon*.

An APPENDIX to the Three foregoing Chapters.

§. 1. **M**R. *Yeats* was so unwilling, that either the Dean of *Sarum*, or any other of that Church, should have any share with him in the Honour or in the Blame of his Project of the Four Articles, that he writ an honest Letter to a Person of Quality in the Countrey, (as before to some at Court, and to the Lord Bishop himself) who permitted the Dean's Son to transcribe as much of it, as he thought would conduce to his Father's Service and Satisfaction: And 'tis as follow's.

[I am heartily sorry that any should be so Atheistical, as still to suspect the Dean's privity to my design, after so much evidence and conviction to the contrary; and therefore to shame them, I am ready to undergo whatever Test shall be put upon me, to declare that the Dean was neither directly nor indirectly, nec per se, nec per alium, acquainted with my design, but every way as ignorant thereof, as the Child unborn; and much less abetting me therein, than the Bishop himself from whom I had indeed two Inducements, but
from

from the Dean none, nay less than none; this being the only way I had to incur the Dean's Displeasure, but withal to procure a Favour from the Bishop, or at least from the King himself. The only offence that I can charge my self herein to be guilty of, and for which I do, and must ever beg the Pardon of Mr. Dean, is not only that I drew up those Articles without his Privy, or Assistance, but also without his knowledge or consent, referr'd my self for Proof of them to Books and Papers in his Hands. Truth is, the knowledge I had of the chief things suggested by me to the Lords Commissioners, was principally from a Sheet of Reasons whereof Copies had been dispersed into several mens hands, as well of both Houses of Parliament, as private Persons, One of which Copies I have here with me, penned by the Dean about Six Years since, which Sheet was Entitled,
 ——— Certain Memoirs of things pleadable against a Bill then prepared for the taking away of all Peculiar Jurisdictions, &c. wherein among others, I found this very observable Passage.

The Dean and (f) Canons of Sarum had their abode before the Conquest in Old Castle called Caesar's Burg, and corruptly Sarisberg, by the Britains, Sorbiodunum. It was at the first the King's Free Chappel, as Windsor is at this day, wherein the Dean (under the King) had more than Episcopal Jurisdiction. Vide *Vetus Registr. Miscell. & Registr. Dom. Richardi Episc. Sarum.*

[Twas from this, and certain other Passages there following, (seconded by what I heard from some

(f) Note that this was an error in those Memoirs. For the Dean was Alone before the Conquest, and some while After without any Chapter, as now the Dean of the King's Chappel at White-Hall is.

(g) Persons better known, as I thought, in the Affairs and Records of that Church, than I can be supposed to be,) *that I thought I had reason enough humbly to tender those Fourthings to be inquired into by their Lordships. But for the Reverend Dean of Sarum, he had no manner of knowledge of my Design, or of my Two Inducements to it, nor of the Petition of the Mayor and Magistrates of Marlborough, nor of those Noble Persons who did promote it; and therefore as I have highly though undesignedly dishonoured him, by acting as I did, without his Privy, and (as I found since) against his Will; so I have, and do, and ever will beg his Pardon; which whether I ever obtain, or not, I will be ever his Vindicator in the bottom of my Heart, from his having had the least share, or so much as knowledge of my Rashness and Precipitancy.*

§. II. Thus far Mr. *Yeats* word for word; and as truly as ever any man spake: He offered also to confirm it in open Court upon Oath, which makes me say, that those men are unworthy, and must not expect to be believed upon their Oaths, much less upon their Words, who will not believe the Dean of *Sarum*, and Mr. *Cornelius Yeats* of *Marlborough* either upon their Words, or upon their Oaths. Mr. *Yeats* his Character is no where fitter to be seen, than in the famous Petition of the Mayor and Magistrates of *Marlborough* to the King, Presented by the hands of the Lord *Bruce* in his behalf, whose great Parts and greater Piety are celebrated by Them, (both to the King, and the Lords Commissioners,) who have the best experience and knowledge of him. And not yet to

(g) N. B. He consulted with others, though not with the Dean.
mention

mention those Horrid and Scandalous Reports, which Mr. *Yeats* his bitter Enemies have labour'd under, and still do labour.

There are not any either of his, or of the Dean of *Sarum's* Enemies, who can prove so convincingly that they had not any hand in, or Assent to, or Connivance at, or Knowledge of the most execrable Murder of Sir *Edmundbury Godfrey*, (until they had it by report,) as the said Dean hath proved, and can prove, that he had *no hand in, or Assent to, or Connivance at, or Knowledge of, Mr. Yeats* his Project of the Four Articles, until he was informed of it by the Lord Bishop of *Sarum*, and by the Chapter of the same, in a Letter from Mr. *Frome*. For Sir *Edm. Godfrey* being dead, can attest nothing on their behalf; and they have nothing but their own Oaths whereby to clear their own Innocence, to which they have forfeited all Belief with considering men. But Mr. *Yeats* is still living to clear the Dean of *Sarum* upon his Oath, the which he offered in open Court, and will be ever ready to take, and who will ever find Belief from All who are acquainted with his unblameable Conversation, which will every where have credit, where his Enemies have None. Nor hath he, or the Dean of *Sarum* any Enemies they know of, who are not Enemies at the same time, both to God, and the King, and the Church of *England*. 'Tis the Nature of Christian Charity, not to suspect others hastily, of any ill thing which it abhors; whilst they who are wont to do Injuries, suspect others of the like. Nothing hitherto can be said to clear the Regular and Episcopal Clergy from a suspicion of being Papists, or Popishly affected, with the whole Dissenting and Schis-

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matical

matical Party ; and they who suspected, or rather pretended to suspect the Dean of *Sarum* of a Plot to deprive the Bishop of a Right to give Prebends, even immediately after the Bishop had promised a Prebend to the Dean's Son, (of his own accord, and undesired, which added most of all to the Obligation,) are like those most Malitious, and Unexcusable Fanaticks, who pretended to suspect the King himself, not only of contriving the Fire of *London*, but also of being in the plot against his own Life and Kingdom. See the excellent *Address to all the Freeholders and Freemen of England* ; part. 1. pag. 45, and 50. and part. 2. pag. 2, 3, 5, 6.

§. 3. But now suppose the Dean of *Sarum* had not only permitted, but perswaded Mr. *Tears* and the Magistrates of *Marlborough*, to apply themselves unto the King for a Prebend of *Sarum*, and to plead, that the Supremacy of Right to give Prebends is in the King, from whose Original Right, the Bishops Right to give them is but derivative, (and therefore only a good and undoubted Right, because derived from the Crown,) he had not abjured the doing of it, but rather had owned it with Ambition. The only Reason why he denies it, is because it is a Lye ; and because he is a lover of Truth and Justice ; and because he will not willingly sully the Merit of his Obedience to the very express Commands of the Lords Commissioners ; who finding him averse from his being a Voluntier, were therefore pleased to press him for his Majesties Service, wherein he had not been else employed.

§. 4. In compliance with the said Order and peremptory Command of the Lords Commissioners, (to which no Churchman could refuse to pay Obedience,) the Dean of *Sarum* drew up a *Narrative of Matters of Fact*, which he had found in Old Registers; wherein he took occasion to censure Mr. *Teats*, §. 9. and to assert the Lord Bishop of *Sarum*'s Right to dispose of Dignities, Sub-Dignities and Prebends at large, §. 10. as well as the Right of the Dean singly, together with the Rights of Dean and Chapter in conjunction. And all upon the same principle or ground, on which he humbly did conceive the several Rights were all held: He did conceive, that all Rights are either *Subordinate* or *Supream*: He thought it dangerous to assert the Subjects Rights to be *Supream*, and therefore called them *Subordinate*: And lastly, He thought their Rights the *Firmer*, for being derived from, and depending on, and standing upon so *sure a Bottom* as the *Supream*. He shew'd what our Monarchs had done *de facto* in and over the Church of *Sarum*, which was not to reveal a Secret; for some of the Alienations of several Prebends, and one Archdeaconry, from that Church, are publickly written in Letters of Gold on the several Stalls, and exposed to the Reading of all Mankind. But whether such Alienations were, or could be *de Jure*, the said Dean left humbly to the Consideration of his Superiours.

What more or less could have been said to that purpose, by any of the Chapter, or by them All, or by my Lord Bishop himself, if either of them had been so commanded to speak his Knowledge, or his Sense, as the Dean of *Sarum* was, they

themselves can best tell; but the Dean of *Sarum* is yet to learn.

§. 5. One thing is fit to be considered by those Pretenders to a suspicion of Persons more credible than themselves; which suspicion 'tis thought they have not, and cannot have in good earnest, against the Evidence and Conviction they have several times met with; if at least they have Faith and Charity, and do really believe there is a God, and a Devil, and Heaven and Hell. Suppose that two of their Number shall be pretended to be suspected of two grand Crimes, the one of *Simony*, and the other of *Incest*; and that the Whispers of those Suspicions shall be disseminated and spread into publick Fame. Will not those Persons be glad to be allowed to prove the Negative upon their Oaths? Will they not take it extremely ill, to get no more by their Vindication, than to have the Fame of *Perjury*, superadded to the suspicions both of *Simony*, and *Incest*? Will they not expostulate, *si accusasse suffecerit, Quis erit Innocuus*? Will they not probably break out into the Learned *Diatribist's* Exclamation, Ζεῦ Πατήρ ὡς Καθαῶς πῦρ ἀπόλοιτο γένος! They cannot hope to be believed upon their own single Oaths, who dare pretend not to believe honest Men upon their double ones. Besides that *Simony* and *Incest* will be accounted more scandalous, even by the Whigs in these worst of Times, than to be zealous for the King's Rights, or to obey the Lords Commissioners. And therefore, if the Inventers of silly Jealousies and Lyes, shall at any time chance to suffer the heinous things which they have done, they will learn for the future to deal with their Neighbours and their Friends, as they

they would that their Enemies should deal with Them.

Part of Mr. *Cornelius Teats* his LETTER to a Person of Great Honour, an Eminent Officer at Court, and afterwards to another of lesser Quality; giving an Account of his Undertaking, after the Petition of the Mayor and Magistrates of *Marlborough* to the KING in his behalf.

BESIDES my appearing for the King's Prerogative and Right, which was a principal Motive to this so strange Attempt of mine, I had likewise two other Inducements, which I hope may in some measure take off the blame, and very tolerably account for a Procedure of this Nature.

The One, that the Bishop of Sarum some years since voluntarily promised, and that with repeated Asseverations, (I do not say the next Prebend, but) whatever lay in his Power to do for me; though being since that time, again and again Requested by me, and by many Others, (not considerable Persons) on my behalf, at what time there were vacant Prebends many in one Tear, yet he never did any thing towards the Augmentation of my Poor Maintenance: so that indeed I was weary of depending any longer upon Complements.

Next, I did but follow (as I was led,) the Bishops own Example; for having observed, that his Lordship applyed himself to the King for a Royal Mandate, whereby to over Rule the Dean and Chapter of Sarum to Prælect his Nephew Mr. Seth Ward into the next Place of Residence which should be void, (the only Good Thing which is in the Gift of the Dean and Chapter, when the King does not oppose his Original Right to their

their Derivative,) I thought I might with greater Reason apply my self (in such a way as I did, viz. by asserting the Kings Original Right,) to obtain from His Majesty a Prebend at large of a lesser Value (not the only Good Thing in the Bishops Gift, by a Derivative Right, whereof the Original is in the King,) because that Nephew had been before provided for by two Uncle-Bishops, with as much as would have served five or six Worthy men, and did not want an Augmentation; as I evidently did; nor was his Task so great, as mine is very well known to have always been; nor did his Uncle want Things in his particular Disposal, as most of my Patrons did, and do; nor had the Bishop more Right Derivative to bestow a Prebend at large, than the Dean and Chapter to bestow the Places of Residence: and his Lordships applying himself to the King for such a Canonry was (according to the Rules of all the Logick that I ever have been acquainted with) a Confession of his Judgment, that All Promotions in the Cathedral Church of Sarum are in the King by an Original Right, though by a Derivative in the Bishop partly, and partly in the Dean and Chapter; and truly Sir, I had a fairer Opinion of his Lordship than to think he would blame that in me, which he approved of in himself: Nor did I imagine, but that a Poor Vicar might beg what he wanted of his King, as well as a Great and Rich Bishop, who wanted nothing.

Sir, I have here freely and fully discovered the very sense and thoughts of my Heart to you, and do humbly hope, that I may from You at least obtain a merciful and candid Opinion of my Proceedings. But I am afraid I have wearied you with the unusual length of this Letter; I am sure I have wearied my self in writing it, having already preached twice this day, and being also to prepare another Sermon at a Funeral

to *Morrow Night*, which may serve to excuse what slips may have here fallen from my Pen. I hope I shall always deport my self, as become him who is

Your most, &c.

Part of Mr. Teats his Letter of Dec. 14. 1682. to the Lord Bishop of Sarum, in Vindication of the Dean.

My Lord,

NO Person can be more highly displeased with me, than I am with my self, for having (under the impatience of some disappointments) attempted a thing so far above my reach in that Paper delivered to the Lords Commissioners; especially since I find, that hereby I have not only provoked your Lordship, but also my Worthy Patron the Dean of Sarum, (once my Friend, but now I fear made my Enemy,) as being hereby wrongfully drawn under the most unjust Suspicion of his having been privy to my Delign: when as the Truth is, (which merely to do him right I think my self bound to declare, and if your Lordship require, I will affirm it upon Oath,) He had no hand in, or knowledge of, those Informations, nor (as I verily do believe) of any my proceedings thereabout, till my Letter to him at Canterbury in Nov. last, which he answered with sharp Reproofs, and a Declaration of his Absolute Refusal to assist me in any thing, or to deliver what he might know of that matter: so that I was forced (seeing my self Summoned into your Lordships Consistory) to use my utmost endeavours with all my Friends, to procure a peremptory Command to him from the Lords Commissioners, which I hear is now sent; but with what effect I do not as yet understand; only that is

hath brought him to White-Hall. Besides, my Lord, the thing speaks it self. Articles so unskilfully penned, and with so many disadvantages to the Cause undertaken, can never be supposed to have been drawn up by his Advice, or so much as Connivance, or Permission, &c.

This is all of that Letter wherein the Dean is concerned.

F I N I S.





**Connubium Regiæ Prærogati-
væ, cum Magnâ Chartâ
Anglorum.**



N Compositio (quæ vulgo dicitur)
à Papa Romano Confirmata, A
D. 1392. Ecclesiæ Sarum Fun-
damenta convellat penitus ever-
tatq; , An cum iisdem nequa-
quam pugnet, Quæ sequuntur
perlecturis liquidò admodum

Constabit.

S. I. *Osmundi Charta* in ipsa Fundatione edita,
ac (a) *Sigillo Regis Willielmi* communita, (b) *ex cuius*
Dono & Concessu de Dominio suo Regali tam in Ec-
clesiis quam in Terris, Ecclesia Cathedralis Sarum
Originem duxit & Incrementum, inter cætera,
Hæc habet.

(a) *Dugd. Mon. Angl. vol 3. pag. 378.* (b) *Id. ib.*

" *Dignitas* (c) est Decani, & omnium Canonici-
 " *corum*, ut *Episcopo in nullo respondeant nisi in Ca-*
 " *pitulo, & iudicio tantum Capituli* pateant. Ha-
 " *beant etiam Curiam suam in omnibus Præbendis*
 " *suis, & Dignitatem Archidiaconi ubicunq; Præ-*
 " *bendæ fuerint assignatæ in Parochia nostra, sive*
 " *in Ecclesiis, vel Decimis, vel Ferris. Ita qui-*
 " *dem quoddam Nulla omnino Exigentia, in dono vel*
 " *in Assisa, aut aliqua alia Consuetudine, ab Epis-*
 " *copo, vel a quolibet Alio fiat in Præbendis eorum;*
 " *Sed Omnes Libertates & omnes Dignitates Plenarie*
 " *& Pacificè habeant, Quas Ego Osfridus Epis-*
 " *copus in eisdem Præbendis habui, Aut Aliquis*
 " *Alius, cum eas in nostro Dominio haberemus.*
 " *Quando verò aliquis constituitur Canonicus,*
 " *debet coram Fratribus in Capitulo jurare, præ-*
 " *sente Evangelio, se Dignitates & Consuetudines Ec-*
 " *clesiæ Sarum inviolabiliter observaturum. Deca-*
 " *nus omnibus Canonicis, & omnibus Vicariis*
 " *præstet, quoad Regimen Animarum & Correctionem*
 " *Morum. Testes sunt Hi; Willielmus Rex An-*
 " *glorum, Thomas Archiepiscopus, & Alij mul-*
 " *ti Episcopi.*

§. 2. Virtute Hujus Exemptionis Fundamen-
 talis, à Regibus Angliæ per (d) *Chartas suas* Confir-
 mator, Decanus solus cum Capitulo Statuta Authen-
 tica (e) Consecit, quæ Episcopi deinde cum Decanis
 & Capitalis assistentibus conjuncti, grata & rata
 habuerunt. Hujus rei sunt Exemplis Richardus
 Poor, cum adhuc esset Decanus Sarum, A. D. 1213.

(c) Lib. de Eccl. Sar. fol. 86. a & b. Quicum Confer. c. 39. f.
 36, 37. (d) V. suprad. ubi supra, & Lib. Stat. cap. 40. f. 38,
 39, 40. (e) Confer. Pref. Rogeri de Mortival, cum cap. 41, 46,
 47, 48, 49, 51, 52.


Nec non Petrus de Sabaudia A. D. 1305. Episcopis tunc temporum nequaquam adhibitis in Concilio. Deniq; Rex Henricus Tertius in Charta sua apud (f) Dugdallum, Translationem " Ecclesie Sarum de Castro suo Saresberiae, & ratam habuit, & Canonicis ejusdem Ecclesie & hominibus suis Omnes Libertates & liberas Consuetudines quas habuerunt Temporibus Predecessorum suorum, &c. sicut Carte ipsorum testantur.

§. 3. Inde est quod Decanus (non Episcopus) ab ipsis Episcopis Declaratur (f) Immediatus Loci Ordinarius. Testamenta Decani sunt insinuanda, Bona tam in Clauso Sarum quam in Prebendis sequi quastari possunt per Decanum. Admissus Canonici per Decanum, vel per ejus Locum-Tenentem, (h) jurabit, quod erit obediens Decano. (g) Dominus Decanus, seu alius ab eo missus Visitationem faciet, Errata corrigit, ~~Corruptionis~~ Correctionis Stimulum apponit, Disposita recolligit, &c. Et ad librum ipsius, unius diei procuracionem laute recipiet.

§. 4. Jurisdictionis Decanalis in Clauso Sarum mature habita Contemplatione, ~~Archiepiscopus~~ Episcopus Sarum Integerrimus (Is qui Ecclesiam Cathedrali consecravat dedicavitq;) omne Jus iurisdicendi Visitandive in Clauso Sarum, Sibi suisq; Successoribus ex tote Corde Abjudicat; idem Jus Decano Sarum disertè asserit vendicatq; Visitationem Designatam ex certa Conscientia tractat illico, damnatq; nec non in omnem Rei memoriam, Dictus Præsul ~~Episcopus~~ (cui Cygneam Probitatis Pietatisq; sue Vocem) feris Postcris infra scriptam dulcissime canit Palinodiam.

(f) In Mon. Angl. vol. 3. p. 376. (g) Lib. Stat. c. 23. fol. 21. (h) Cap. 1. f. 9. b. (i) Cap. 32. f. 46. a.

4 *Connubium Regiæ Prærogatiua*

“  “ Universis (b) Christi Fidelibus præsen-
 “ tes Literas visuris vel audituris *Agidius* Dei pa-
 “ tientia *Sarum* Ecclesiæ Minister humilis salu-
 “ tem in Domino sempiternam. Cum nos *visita-*
 “ *tionem* faciendam in Capitulo nostro *Sarum* tam
 “ in Capite quam in Membris dicimur deman-
 “ dasse; Ad certam & 1. plenariam deliberationem
 “ supra his revertentes; 2. Inspectis *Institutiis* *Be-*
 “ *ati Osmundi* *Sarum* Ecclesiæ *Fundatoris*, & 3.
 “ *Libertatibus* & *Immunitatibus* quas idem Fun-
 “ dator in dicta Ecclesia stabilivit; 4. Considera-
 “ tis consuetudinibus quibus *Sarum* Ecclesia usq;
 “ ad nostra tempora regebatur & usa fuit, tam
 “ temporibus vacationis quam Sedis Ordinatae;
 “ 5. Intellecto etiam quod nullus Antecessorum
 “ nostrorum hujusmodi *visitationem* exercuerit, nec
 “ demandaverit; Nos dictum *mandatum* sub quo-
 “ cunq; genere verborum factum ex certa *Consci-*
 “ *entia* penitus 1. *Revocamus*, & ex ulterius ob id
 “ quicquid sequitur 2. *Pronunciamus*, & 3. *Decer-*
 “ *nimus non valere*. 4. *Protestantes*, & 5. *Statuen-*
 “ *tes*, pro nobis, & Successoribus Nostreis Episco-
 “ pis in Ecclesia *Sarum*, quantum ad nos pertinet,
 “ quod dictum Capitulum *Sarum*, tam in Parsonis
 “ *Canonicis*, *Vicariis*, *Rebus*, & *Familiis* ipso-
 “ rum, tam in *Causo* *Sarum*, quam in *Præbendis*
 “ *Sarum* Ecclesiæ, a *Visitatione* *Episcoporum* *Sarum*
 “ *perpetuis temporibus* existunt 6. *Liberi*, & *Immunes*.
 “ Maxime cum hoc ad *Decani* 7. *Officium* & *Dig-*
 “ *nitatem* ipsius *Statuimus* pertinere. Præterea
 “ vacantes *Vicarias* *Præbendarum* *Sarum* & *Or-*
 “ *ditiones* ipsorum tam in taxationibus facien-
 “ dis, quam in *Parsonis* præsentandis, admitten-
 “ dis, & instituendis, simul & correctiones Vi-

(b) *Regist. Burg. Evident. Tom. Xi. fol. 79. Anno 1264.*

“ cariorum Præbendarum, nec non & ipsorum
 “ Vicariorum qui in Ecclesia Cathedrali deservi-
 “ unt, *plene* 8. & *totaliter* ad dictum Decanum &
 “ Capitulum 9. *Recognoscimus* pertinere; 10. *absq;*
 “ *omni Jurisdictione & Potestate* Episcoporum Sa-
 “ rum pro tempore existentium. 11. Salvis no-
 “ bis & Successoribus nostris præsentationibus
 “ Vicariorum per Canonicos Præbendarum faci-
 “ endis in *Nostris duntaxat Maneriis*. IN HU-
 “ JUS REI fidem præsentem Literas Sigillo Nos-
 “ tro fecimus communiri. Dat Sarum Die Mar-
 “ tis Proximè post Festum Sancti Michaelis Anno
 “ Domini Millesimo Ducentesimo Sexagesimo Se-
 “ cundo.

Hujus Chartæ Confirmatio per Decanum &
 Capitulum capitulariter Congregatos in hæc ver-
 ba sequitur.

“ Omnibus Christi Fidelibus præsentem Literas
 “ inspecturis vel audituris R. Decanus & Capit-
 “ ulum Ecclesiæ Sarum salutem in Domino. fem-
 “ piternam. Cartam Venerabilis Patris *Egidij*
 “ Dei gratia Sarum Episcopi inspeximus in hæc
 “ verba.

“ [Universis Christi Fidelibus, &c. ut supra.]
 “ Nos igitur præscriptas *Revocationes, Promittia-*
 “ *tiones, & Decreta, Protestationes, Recognitiones, &*
 “ *Statuta* habentes & grata, unanimi Consensu ea
 “ duximus confirmanda. Et ad majorem rei
 “ fidem & firmitatem, Sigilli nostri communis
 “ Impressione præsens Scriptum duximus robo-
 “ randum. Hiis Testibus, Domino [*Roberto de*

(i) Exceptio firmat regulam in Non exceptis. *Ibid.*

“ Harforde

5 *Connubium Regie Prærogative*

" Hartforde] Decano Sarum. Domino R. de
 " Hengam Cancellario. Domino R. de Warmill
 " Thesaurario. Domino Simone Archidiacono
 " Berks. Domino Nicolao Archidiacono Sarum.
 " Johanne Subdecano. D. Waltero Succentore.
 " Nicolao Longespe. D. Waltero de Merton.
 " D. Martino de Halebury. Roberto Deswood.
 " Rho. de Ripton. Roberto Foliat, & aliis. Dat.
 " Sarum die Mercurii prox. post Festum S. Mi-
 " chaelis A. D. 1262.

§. 5. Porro in Registro vocato *Hemings by* con-
 ceptis verbis sic Scriptum legimus. " *Huc usq;*
 " *visum non extitit, quod Alius quam Decanus Sarum*
 " *officium Visitationis exercuit in Præbendarios, fol.*
 " *77. Constat enim ex Statuto Richardi Poor,*
 " *quod (k) quodocumq; facienda fuerit generalis*
 " *Convocatio Canonorum, tradet Decanus Literas*
 " *Vicariis Canonorum Vocandorum, & injungent*
 " *illis in Virtute obedientie, quod Dominis suis trans-*
 " *mittant ad Præbendas, a quibus Sumptus propter hoc*
 " *faciendos percipiant. Neq; aliter hoc fiebat,*
 " *quàm per Mandatum Decani, 1355. in Registro*
 " *Corf. p. 111. & in Coman. p. 73. A. D. 1387.*
 " *& in Pountney p. 29, 30. A. D. 1413.*

§. 6. Notatu dignissima est (l) Querela Archie-
 piscopo Cant. oblata contra *Radulphum Ergham*
 Episcopum Sarum Visitatorem Præbendas Deca-
 natu Vacante circa An. 1375.

A. D. 1346, (k) *Lib. Stat. cap. 41. fol. 41. A. D. 1222.*
 (l) *Regist. D. Davyson, fol. 13.*

Ex parte Presidentis & Capituli.

“ Infra Castrum Domini Regis, & in ipsius
 “ solo, (nullatenus Episcopi Sarum,) primitus
 “ extitit fundata Ecclesia, ut *Libera Capella*, ejus,
 “ *ab omni Jurisdictione Diocesani Exempta*; plena
 “ *Libertate*, more Aliarum Regiarum Capellarum
 “ Angliæ, gauderet. Quam Beatus Osmundus,
 “ tunc Sarum Episcopus, Consensu Willielmi Re-
 “ gis Patroni prædicti tunc præsentis, solenniter
 “ de certis Præbendis fundavit, ac Canonicas Digi-
 “ nitates & officia Primus constituit in eadem.
 “ Ac per sua Statuta in ipsa Fundatione edita,
 “ de consensu ejusdem Regis Ecclesiæ Patroni,
 “ tam *Decanum* quàm *Canonicos* Sarum Omnes &
 “ *ab omni Jurisdictione Episcopi Sarum Exempti* Total-
 “ iter in hæc verba. [Dignitas est Decani & om-
 “ nium Canonicorum, ut Episcopo in Nullo res-
 “ pondeant, &c. ut supra §. 1. p. 1.] — ac om-
 “ nes *Libertates & Dignitates*, quas Idem Osmun-
 “ dus in dictis Præbendis habuit. Item translata est
 “ Ecclesia à dicta Castro per Richardum Episco-
 “ pum de Consensu & Licentia Regis Angliæ Pa-
 “ troni ejusdem cum omnibus suis *Dignitatibus*,
 “ *Libertatibus*, *Statutis*, *Exemptionibus*, & *Consue-*
 “ *rudinibus*, *Autoritate Apostolica*. — Ad dictas
 “ etiam Ordinationes, Consuetudines, Libertates,
 “ ac Dignitates fideliter tenendas, & inviolabiliter
 “ observandas, Episcopi, Decani, & Canonici Sa-
 “ rum Præbendarii, qui pro tempore fuerunt &
 “ sunt, eorum temporibus Successivis, omnes &
 “ singuli Juramentis Corporalibus ad Sancta E-
 “ vangelia præstitis, realiter fuerunt & sunt a-
 “ stricti. Verum quòd (Reverendissime Pater)
 “ post

8 *Connubium Regia Prærogative*

“ post & contra omnia præmissa, Reverendus in
 “ Christo Pater & Dominus Radulphus Dei gratia
 “ Sarum Episcopus sciens se ad præmissa omnia
 “ & singula sui juramenti Debito observanda, ut
 “ prædicitur, obligatum fore & esse, Præbendas
 “ nostras nonnullas *de facto*, cum de *Fundationis*
 “ *Statutis & Consuetudinibus* præactis non deberet,
 “ *Visitavit*, & per alios *Visitare fecit*, & mandavit,
 “ & à quibusdam Canonicis & Vicariis Canonici-
 “ corum in Præbendis, Decanatu Sarum Vacante,
 “ asserens eos Subditos suos immediatos, cum non
 “ erant, neq; sunt, obedientiam juratoriam extorsit
 “ injuste, & Nonnulla alia Gravamina circa Præ-
 “ missa dicto Capitulo & Præbendariis, Decanatu
 “ hujusmodi vacante, intulit, & inferre minatur.
 “ Placeat igitur eidem Paternitati vestræ, intuitu
 “ Charitatis, taliter interponere partes vestras,
 “ ut dictus Dominus Episcopus Sarum omnia præ-
 “ missa illicite attemptata, & præcipue *Visitacionem*,
 “ sic ut præmittitur, Decanatu vacante, *de facto*
 “ *inchoatam*, pro salute Anima sue revocet, & præ-
 “ fatum Capitulum & Præbendarios omnes &
 “ Singulos, commodo *Fundationis & Libertatem Sta-*
 “ *tutorum & Consuetudinum præhabitarum li-*
 “ *berè gaudere*, & in solidum exercere, quoad
 “ omnia præmissa, et in pace permittat in fu-
 “ turum.

Post hanc factam Apellationem & Querelam,
 Ita præfatus Archiepiscopus (*Simon Sudbury*) par-
 tes suas interposuit, ut *Radulpho* Episcopo *Visita-*
tione attemptata interdixerit; & deinceps Ec-
 clesia Sarum usque ad Tempora atque Tyranni-
 dem Bonifacii Noni *ὡς ἂν αὐτὸν ὁ ἀλλοτρίος πρὸς κτλ*. Be-
 neficio *Fundationis gavisa sit*.

§. 7. Pari modo Provisum fuerat à Reverendissimo Bonifacio Archiepiscopo Cantuariensi (ex Nobilissima nascendi Proſapia oriundo) de Libertatibus Decani & Canonicorum Ecclesiæ Sarum. (n) "*Maxime quantum ad Libertates, Instituta, & Statuta, quæ Beatus Osmundus & Successores sui in eadem Ecclesia statuerunt & concesserunt. Jurabit etiam [Officialis Archiepiscopi] coram Canonicis in Civitate Sarum præsentibus, quod Libertates & Consuetudines Ecclesiæ Sarum pro posse suo in omnibus officium suum & Jurisdictionem suam tangentibus servabit Illas, & quod fidelis erit Ecclesiæ Sarum, & in executione Jurisdictionis fideliter se habebit, ut superius est expressum. Acta est autem Ordinatio verè Metropolitana A. D. 1362. præsentibus Waltero Dei gratia Wigorn. Episcopo. Thoma de Cantelupo D. Decano. D. Cancellario & Thesaurario Sarum. Waltero Scamell, Galfrido de Mileburn Canonicis Sarum, & post Alios Complures Testes; in plenius rei testimonium & munimen, præsentis Instrumento in modum Chirographi Confecto Sigilla nostra alternatim apposuimus. Et ut præsens Compositio firmior habeatur, Prior & Capitulum Cant' ipsam expresso ratificantes consensu, præsens Instrumentum Sigilli sui munimine roborarunt.*

§. 8. Neq; aliter Res stetit dum Cardinalis (o) Raimundus Decanus Sarum audiebat, & Cardinalis Arnoldus ejusdem Ecclesiæ Thesaurarius. Uterq; A. D. 1330. His horumq; Successoribus salvæ semper & integræ Libertates prædictæ perman-

(n) Lib. Stat. Eccles. Sar. cap. 55. De Ordinatione Bonifac. Archiep. Cant. p. 30. b. 51. a. (o) Regist. Hemingsby p. 42, 43.

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ferunt. Tandem vero *Compositio* παρρησιάζομαι, non in alium duntaxat sensum, verum etiam in *Contrarium* confecta est, Quam μᾶλλον ἐκείνη (proh dolor!) vocare licet. Inde enim videtur ingens Malorum Ilias effluxisse. Inde Regum Decreta contemptim habita. Inde Osmundi nec *Institutio*, nec *Execratio* aut cordi aut Curæ est. Inde Statuta (nomine tenus) sibi invicem adversantia, ab Episcopis, Decanis, & Capitulis Sarum emanarunt, Spreta Legibus Anglicanis jam (p) tum latis, fixisq; & in super habita *Magna Charta*, ut ut, per Acta Parliamentorum (Triginta ad minimum), corroborata, Ipsa præfatas Immunitates ab Osmundo fundatas (q) sub ultima pœna corroborante.

§. 9. Summatim dico. Quod Episcopo *Egidio* ejusq; Antecessoribus nequaquam licuit per *Juramentum*, per *statutum* *Foundationis*, per *Consuetudinem* *Ecclesiæ*, per *Magnam Chartam* totius *Angliæ*, Compluribus Actis Parliamentorum Confirmatam; Qui fieri potest, ut ejusdem *Egidii* Successoribus (non obstantibus Præmissis) Id ipsum liceat? Quæcunq; dedit, dedit (s) *Libere Osmundus*, Ita nimirum prout Ipse eadem obrinuerat a Domino Rege *Willielmo*. Concessitq; *Libertates* quas (r) Ipse habuit in *Præbendis*, cum adhuc in suo Domino essent. Et Coronidis loco edixit—— (u) *Quisquis hac pervertere voluerit, perpetuo Anathematizetur.*

Quod *Anathema* reformidas Episcopus Sarum *Johannes* (w) *Fewel*, existimavit statuitq;, non tantummodo *consensu*, sed et rogatu suorum Fra-

(p) Præsertim 16 Ric. 2. c. 5. A. D. 1392. (q) Vide Stat. 25. Ed. 1. cap. 4. (s) Lib. St. C. 39. f. 36. (r) Ibid. fol. 86. (u) c. 39. f. 37. (w) Regist. Holt. fol. 76.

trum, (ab eodem Anathemate sibi pariter metuentium) “Veterem Constitutionem Antecessoris sui Osmundi in integrum esse Restituendam.

§. 10. Præmissis *αξιωματικῶν* hoc unum addo ; Quod sicut Papa *Honorius Tertius* non approbavit Translationem Ecclesiæ Sarum de Castro Regis ad locum Inferiorem, nisi clausula hac addita Apostolicis Literis inserta, (x) [*Salvis ipsius Ecclesiæ Sarum Privilegiis, Dignitatibus, & Consuetudinibus,*] Ita *Bonifacius Nonus* non omnino confirmavit ipsam Compositionem toties à nobis decantatam, nisi solenniter interposita hac notabili Cautione & Conditione insignissima, (y) [*VISITATIONE & Jurisdictione Decanali in 1. OMNIBUS & per 2. OMNIA, Decano & Successoribus suis 3. SEMPER salvis,*] Si in omnibus, tum in Clauso, cujus Decanus est *Ordinarius* in confesso. Si per omnia, tum per Ecclesiam, quæ pars est Clausi Eminentissima. Deniq; si *Semper*, tum in quolibet Septennio, & de septennio in septennium, sed non Duntaxat.

Hinc aut probatur Decanum eximi ab omni Visitatione Episcopali in Ecclesia & Clauso, aperta vi & virtute Ipsius Compositionis, aut ipsam Compositionem Sibi ipsi repugnare; contra se ipsam militare; gravissime propriis perire Pennis; & si Homérico Hemestichio hic uti liceat,

ἄνθρωπος ὁ δὲ ἀχὺν
ἄνδρ' ἐς χεῖρας.

(x) *Regist. Davyson* f. 13. (y) *Lib. Stat. cap. 63.* fol 68.

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§. 11. In the Statute of 25 Edw. 1. A. D. 1296. in Confirmation of Magna Charta (x), " All things done and Judgments given contrary to the Points of the said Charter, shall be undone, and holden for nought. Cap. 2. The said Charter is to be sent under the King's Seal to Cathedral Churches throughout the Realm, there to remain, and is to be read before the People two times by the Year. Cap. 3. (with which compare *Coke Inst.* 2. Parag. 527.) All Archbishops and Bishops shall pronounce the Sentence of Excommunication against all Those that by Word, Deed, or Counsel, do contrary to the aforesaid Charter, or in any Point break or undo it. And the said *Curses twice a year* are to be Denounced and Published by the Prelates aforesaid. And if the same Prelates, or any of them, be remiss in the Denunciation of the said Sentences, the Archbishops of *Canterbury* and *York* for the Time being, shall compel and distrain them to the Execution of their Duties in Form aforesaid, Cap. 4.

This is over and above the Curse of Osmund.

§. 12. In the Statute of 16 Rich. 2. Cap. 5. The Pope's Assumings then in *England* are said to have a Tendency to the open Disherison of the Crown, and Destruction of our Lord the King, his Law, and all his Realm, if Remedy be not provided. For want of which Remedy then made, 'tis there added, that) the Laws and Statutes of the Realm would

(x) Compare the Statute of 16 Rich. II. c. 5. A. D. 1392. with 25 Edw. I. A. D. 1296. and both with the Composition which made against both, 1392.

be avoided at the Pope's Will, in perpetual Destruction of the Sovereignty of the King our Lord, his Crown, his Regality, and of All his Realm, which God defend.

This repeated Assertion of the Then House of Commons (§. 1.) was assented to, and repeated twice by the Then House of Lord (§. 2.), and All in Reference to Pope *Boniface the 9th*, who then presumed to intermeddle in the Cathedral Church of *Sarum*, and took upon him to *Authorize the Composition* there made, even the very same Year wherein the said Statute was made against him. Unto which Papal Authorization King *Richard II.* did either consent, or he did not. If he did not, the Pope bely'd him: If he did, he therein acted to the *open Disherison of his Crown*, and contributed too much to his *Deposition*.

(1) *The Sum and Upshot of the Difference between the Bishop and Dean of Sarum, is briefly This, if there is Any.*

THE Dean is of Opinion, That the King and the Bishop have both a Right to give Prebends, with this Distinction.

The King's Right to give them is Original and Supreme; the Bishop's Right to give them is Derivative and Subordinate.

Of this Distinction his Lordship does, or does not allow. If he does, his Lordship is of

(1) This was prefixed in Writing to this Piece by some one of its former Readers.

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the Dean's Mind, and the Difference is at an End: If he does not, the Dean wonders at it; and the more, because the Greatest of Lawyers, and the Greatest of Divines, do all agree in the said Distinction.

Which is proved in the First Chapter of the Dean's *Vindication of the King's Sovereign Rights*. And all besides that, may stand or fall with that Distinction; or be as if it had never been.



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